



Minutes

May 9, 2013

1:30 P.M. ◊ Main Assembly Room ◊ City County Building

The Metropolitan Planning Commission met in regular session on March 14, 2013 at 1:30 p.m. in the Main Assembly Room, City/County Building, and Knoxville, Tennessee. Members:

Ms. Rebecca Longmire, Chair	Mr. Michael Kane
Mr. Herb Anders	Mr. Nate Kelly
Mr. Bart Carey, Vice Chair	Mr. Charles F. Lomax, Jr
Ms. Laura Cole	Mr. Brian Pierce
Mr. Art Clancy	Mr. Jeff Roth
Mr. George Ewart	** Mr. Jack Sharp
Mr. Len Johnson	Mr. Wes Stowers
	Ms. Janice Tocher

* Arrived late to the meeting.

** Left early in the meeting.

A – Absent from the meeting

1. ROLL CALL, INVOCATION AND PLEDGE OF ALLEGIANCE

* **2. APPROVAL OF MAY 9, 2013 AGENDA.**

THIS ITEM WAS APPROVED ON CONSENT.

* **3. APPROVAL OF APRIL 11, 2013 MINUTES**

THIS ITEM WAS APPROVED ON CONSENT.

4. REQUEST FOR POSTPONEMENTS, WITHDRAWALS, TABLINGS AND CONSENT ITEMS.

Automatic postponements read

POSTPONEMENTS TO BE VOTED ON READ

MOTION (CLANCY) AND SECOND (JOHNSON) WERE MADE TO POSTPONE AS READ. MOTION CARRIED 15-0. POSTPONED 30 DAYS UNTIL THE JUNE 13, 2013 MPC MEETING.

MOTION (CLANCY) AND SECOND (JOHNSON) WERE MADE TO POSTPONE AS READ. MOTION CARRIED 15-0.

POSTPONED 90 DAYS UNTIL THE AUGUST 8, 2013 MPC MEETING.

Automatic Withdrawals Read

WITHDRAWALS REQUIRING MPC ACTION

None

REVIEW OF TABLED ITEMS

WILSON RITCHIE 3-F-10-SC

Request closure of Lecil Rd between Asheville Highway and N. Ruggles Ferry Pike, Council District 4.

METROPOLITAN PLANNING COMMISSION 6-A-10-SAP

Ft. Sanders Neighborhood District Long Range Planning Implementation Strategy. Council District 1.

METROPOLITAN PLANNING COMMISSION 7-C-10-SP

Central City Sector Plan Amendment as recommended by the Ft. Sanders Neighborhood District Long Range Planning Implementation Strategy. Council District 1.

WILLOW FORK - GRAHAM CORPORATION

a. Concept Subdivision Plan 11-SJ-08-C

Southeast side of Maynardville Hwy., southwest side of Quarry Rd., Commission District 7.

b. Use on Review 11-H-08-UR

Proposed use: Retail subdivision in PC (Planned Commercial) & F (Floodway) District.

HARRISON SPRINGS - EAGLE BEND DEVELOPMENT

a. Concept Subdivision Plan 4-SC-09-C

Southeast side of Harrison Springs Ln., northeast of Schaeffer Rd., Commission District 6.

b. Use On Review 4-D-09-UR

Proposed use: Detached dwellings in PR (Planned Residential) District.

TIPPIT VILLAGE - SITES TO SEE, INC.

a. Concept Subdivision Plan 9-SA-10-C

Northeast side of Andes Rd., north of David Tippit Wy., Commission District 6.

b. Use On Review 9-E-10-UR

Proposed use: Detached dwellings in PR (Planned Residential) District.

LONGMIRE SUBDIVISION

1-SA-11-C

West side of Tazewell Pk., north of E. Emory Rd., Commission District 8.

BEN H. MCMAHAN FARM RESUBDIVISION OF PART OF TRACT 1 2-SO-09-F
 Intersection of I-40 and McMillan Rd., Commission District 8.

U **EARL KAPLAN PROPERTY RESUBDIVISION OF LOT 2** **10-SG-12-F**
 South side of David Ln, south of Durwood Rd, Commission District 6.

JAMES L. MCCLAIN
 Southeast side Lovell Rd., northeast side Hickey Rd., Commission District 6.

a. Northwest County Sector Plan Amendment 9-A-09-SP
 From LDR (Low Density Residential) & STPA (Stream Protection Area) to C (Commercial) & STPA (Stream Protection Area).

b. Rezoning 9-A-09-RZ
 From A (Agricultural) to CB (Business and Manufacturing).

CITY OF KNOXVILLE 7-D-10-RZ
 South side Joe Lewis Rd., east of Maryville Pike, Council District 1. Rezoning from I-3 (General Industrial) to R-1 (Low Density Residential).

BUFFAT MILL ESTATES - CLAYTON BANK & TRUST 4-B-10-UR
 South side of Buffat Mill Rd., north side of McIntyre Rd., Council District 4. Proposed use: Detached dwellings in RP-1 (Planned Residential) District (part pending).

ITEMS REQUESTED TO BE UNTABLED OR TABLED

MOTION (CLANCY) AND SECOND (PIERCE) WERE MADE TO UNTABLE 10-SG-12-F. MOTION CARRIED 15-0. ITEM UNTABLED.

CONSENT ITEMS

Items recommended for approval on consent are marked (*). They will be considered under one motion to approve.

Celest Tipton, 3908 Valleyview Road which is diagonally across the street from number 35 and there are some issues that need to be addressed separately.

Citizen, 1024 Pleasant Knoll asked about calling Apex Homes out

Longmire: That is not on consent we will hear it at its regular time.

Arthur Seymour, Jr., 550 W Main Avenue, 37902. Ask that number 6 be removed from consent and postponed.

Ken Bowman, 9621 Countryside Center Lane, 37931. Remove number 11 from consent.

MOTION (CLANCY) AND SECOND (JOHNSON) WERE MADE TO HEAR THE CONSENT ITEMS AS READ EXCEPT ITEMS 6, 11 AND 35. MOTION CARRIED 15-0.

MOTION (CLANCY) AND SECOND (JOHNSON) WERE MADE TO APPROVE CONSENT ITEMS AS READ EXCEPT ITEMS 6, 11 AND 35. MOTION CARRIED 15-0. APPROVED.

Ordinance Amendments:

5. METROPOLITAN PLANNING COMMISSION

5-A-13-OA

Amendments to the City of Knoxville Zoning Ordinance regarding creating a corridor overlay zone district.

STAFF RECOMMENDATION: Approve the subject ordinance amendment and forward the amendment to City Council for adoption.

Mark Donaldson: I suspect we could have put this on consent. This is an amendment to the city's zoning ordinance allowing the creation of a corridor overlay zone district. The mechanics of it would be comparable to the Historic Overlay district whereby prior to its being used any corridor would go through a fairly extensive planning process and develop design guidelines that would apply within the boundaries of the overlay district. This is something we first started talking about many years ago with the adoption of the East County Sector Plan with discussion about Asheville Highway. It continued with the adoption of the South City and County Sector Plan updates with Governor John Sevier Highway and most recently has come under discussion with regard to future improvements along Washington Pike and the possible increase in development that might take place as a result of that. This is a tool that would help supplement the regulations that currently exist within the zoning ordinance and allow for some very site specific fine tuning of regulations within the designated corridor. We recommend that you recommend approval to City Council.

MOTION (CLANCY) AND SECOND (JOHNSON) WERE MADE TO APPROVE STAFF RECOMMENDATION. MOTION CARRIED 15-0. APPROVED.

Alley or Street Closures:

6. PIKE ENTERPRISES

3-A-13-AC

Request closure of unnamed alley between eastern boundary of parcel 107NJ003 and western boundary of parcels 107NJ006 & 011, Council District 2.

STAFF RECOMMENDATION: Approve the closure of the unnamed alley, as requested, subject to any required easements and subject to one condition.

Arthur Seymour, Jr. 550 W Main Avenue, Knoxville TN. On behalf of the applicant after further discussions with City Engineering, ongoing discussions with City Engineering, we would request that this postponed for 30 days and hopefully we can have everything resolved at that time.

MOTION (CLANCY) AND SECOND (JOHNSON) WERE MADE TO POSTPONE UNTIL JUNE 13, 2013 MPC MEETING. MOTION CARRIED 15-0. POSTPONED UNTIL JUNE 13, 2013.

* **7. SITE, INC.**

5-A-13-SC

Request closure of Town Center Blvd between southwest side of parcel 98.11, 229 feet northwest of S. Northshore Dr. centerline and northwest side of parcel 98.07, 696 feet northwest of S. Northshore Dr. centerline, Council District 2.

STAFF RECOMMENDATION: Approve the closure of the subject portion of right-of-way, as requested, subject to any required easements and subject to one condition.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

Street or Subdivision Name Changes:

None

Plans, Studies, Reports:

None

Concepts/Uses on Review:

8. CURETON ROAD SUBDIVISION - PRIMOS LAND COMPANY, LLC

5-SA-13-C

a. Concept Subdivision Plan

Westside of Cureton Rd., south of Ball Camp Pk., Commission District 6.

STAFF RECOMMENDATION: Approve the concept plan subject to 7 conditions.

Andy Woelfle, 2050 Smoky River Road, Knoxville, TN 37931. My only concern with it in regards to the application shows states in there that the access be via Cureton Road a local street with a 16 foot pavement width. It is within a 50 foot right to way. Everything is okay. However my concern is that the minimum requirements it states in the minimum subdivision regulations states that the local street minimum pavement width must be 26 feet. The road is already narrow adding on the additional 24 potential lots is going to congest the street even more and make it more of a hazard for traveling.

Longmire: Mr. Brechko would you speak to that please.

Tom Brechko: The requirement of the 26 foot pavement width is for new streets within subdivisions that are proposed. Any time there is a subdivision proposed on an existing county road system we look at the status of that road. Typically if it is less than 18 feet we require widening of that. It was in review with engineering on this project it was determined that the condition of the road was such that they didn't feel that it needed to be widened through that stretch. One of the concerns we did have though was the intersection of Cureton Road at Ball Camp Pike because it has a very sharp angle of intersection and a fairly steep grade on the approach down to Ball Camp Pike. The county's road improvements that they are doing out there actually in the next couple of years they are realigning the Cureton Road/Ball Camp Pike intersection to 90 degree angle and also will be involved in realigning Ball Camp Pike with the proposed Schaad Road. There are, Schaad Road improvements are a three-stage project. They have already completed the first. There are two stages remaining. I have identified in the report that the improvement to Cureton would be in actually phase 3 of the road improvements. I was told it was going to be in phase 2. So it will actually they will be working on that road improvement and realignment within the next couple of years on that approach. The original request that we had on the rezoning was for 5 dwelling units per acre for this property. They have actually reduced the number of lots in their design down to 34. They actually had I think it was about 50 or so lots in the first design. They have redone their project and only proposing the 34 lots. It was staff's recommendation in going over this with engineering that we would not put a condition on requiring them to widen Cureton Road.

Josh Sanderson, 4909 Ball Road. We just ask the Commission to follow staff recommendation and approve the subdivision.

MOTION (CLANCY) AND SECOND (EWART) WERE MADE TO APPROVE STAFF RECOMMENDATION. MOTION CARRIED 15-0. APPROVED.

b. USE ON REVIEW

5-B-13-UR

Proposed use: Detached dwellings in PR (Planned Residential) pending District.

STAFF RECOMMENDATION: Approve the request as shown on the concept plan for up to 34 detached dwellings on individual lots and the reduction of the peripheral setback from 35' to 25' only for lots 1, 30 and 31, subject to 2 conditions.

MOTION (CLANCY) AND SECOND (EWART) WERE MADE TO APPROVE STAFF RECOMMENDATION. MOTION CARRIED 15-0. APPROVED.

* **9. KINLEYS KANYON**

5-SB-13-C

East of Roberts Rd., south of Shelton Rd., Commission District 8.

STAFF RECOMMENDATION: Approve the concept plan subject to 7 conditions...

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

W 10. NUBBINS WOOD

5-SC-13-C

North side of Shadyland Dr. extended, northwest of Nubbin Ridge Rd., Council District 2.

THIS ITEM WAS WITHDRAWN EARLIER IN THE MEETING.

11. MEADOWVIEW - MIDDLEBROOK PIKE DEVELOPMENT, LLC

5-SD-13-C

a. Concept Subdivision Plan

Northeast side of Middlebrook Pk., northwest of Hoyle Beals Dr., Commission District 6.

STAFF RECOMMENDATION: Approve variance 1 and the Concept Plan subject to 10 conditions.

Ken Bowman, 9621 Countryside Center Lane, Knoxville 37931. I just ask that on condition number 7 that we modify that from the driveway of the existing house on the site tying into the internal street only. There are two driveways for this site. There is a northwest driveway that connects with Middlebrook Pike. I spoke with Mr. Kelly this morning about this. We want to remove basically the word only from the internal street only.

Dan Kelly: I talked to Mr. Bowman it was probably around noon when we chatted about this and didn't have time to revise a staff report. But the situation is the existing house has a semi-circular driveway. The proposed road for the subdivision will go where the southeastern entrance to the driveway is now. That will be eliminated. The southern or southeastern driveway will be eliminated and it will tie into the proposed road as part of the new subdivision. I talked with Cindy Pionke of County Engineering Department right after I talked with Mr. Bowman. We do not have an issue with him maintaining that other driveway entrance on Middlebrook Pike. The northwestern driveway as it currently stands it is a right in right out and it would continue to be a right in right out. So we would in order to be able to accomplish what Mr. Bowman is suggesting the wording of the condition number 7 should be the southeastern driveway of the existing house on the site tying into the new internal street period.

Longmire: Okay so the southeastern driveway of the existing house on the site tying into the new internal street. We have removed the only.

Kelly: Right.

Anthony Wiley, 1641 Wayside Road. I adjoin where the new subdivision is. I wouldn't classify myself as opposition. I just have two comments. Number one as you all know Middlebrook Pike was widened some time ago and has an excellent set of sidewalks on the side. I think that nothing adds to the quality of life of a small subdivision, especially I didn't realize it had 74 houses and a good sidewalk system. I know the Commission has the option of requiring sidewalks and I would encourage them to do so. The children will be walking from their not only to the park which is adjacent to the subdivision but also to the recently renovated elementary school on the corner there. I think it would be a good addition.

Longmire: Sir. Variance number 8 about the construction of the 5 foot wide sidewalk on one side of every street in the project. Is that...

Wiley: That would be good. Unfortunately I was not aware of that. Good I am glad my first comment has been accomplished. Second comment is from a drainage standpoint. I know that the regulations require matching discharge rates and whatnot from the site. In the northeast discharge area there is a small discharge that goes into the subdivision. Matching the rates in that particular one would not actually solve the problem. Actually you need to match the quantities also. That is a grass drainage way with not a well defined ditch and if over time you have allowed the increased quantity even though you matched the discharge rates from the subdivision, it would erode over time. I think energy dissipation at that point and design status not only based on rate of discharge but also quantity of discharge would be appropriate at that point.

Longmire: Let me read you variance 9 and see if that addresses and it may not I just want to make sure. Prior to certification of the final plat for the subdivision establishing a property owners association that will be responsible for the maintenance of the storm drainage system and any commonly held assets. Would that ...

Wiley: No, that really doesn't address the issue. I think it will be more addressed in the final design of the subdivision as far as energy dissipation and quantities of discharge. I will try to follow that as it goes along.

Longmire: Thank you sir for your comment.

Wiley: Thank you for the sidewalks.

Longmire: Amen to that.

Jerry Wheeler, P.O. Box 23435 Knoxville TN. Regarding Mr. Bowman's request no problem. The drainage issue is something handled by Knox County Engineering. So we will work that out. I do have a question. I thought sidewalks were 4 feet. Did I hear somebody say 5 feet?

Longmire: In the variance it asks for 5 foot wide sidewalks with a minimum of a 2 foot planting strip on one side of every street and that is to comply with the requirements of the Americans with Disabilities.

Wheeler: Is that the new minimums Dan?

Dan Kelly: Yes

MOTION (CLANCY) AND SECOND (EWART) WERE MADE TO APPROVE VARIANCE 1.MOTION CARRIED

MOTION (CLANCY) AND SECOND (EWART) WERE MADE TO APPROVE THE CONCEPT PLAN SUBJECT TO THE 10 CONDITIONS CHANGING CONDITION NUMBER 7 TO READ THE DRIVEWAY OF THE EXISTING HOUSE ON THE SITE TYING INTO THE NEW INTERNAL STTREET AND DELETING THE WORD ONLY.

Longmire: The southeast driveway.

Clancy: The southeast driveway. Ewart: Second.

MOTION CARRIED 15-0. APPROVED.

b. USE ON REVIEW

5-E-13-UR

Proposed use: Detached dwellings in PR (Planned Residential) District.

STAFF RECOMMENDATION: Approve the request for up to 74 detached dwellings on individual lots and reduction of the peripheral boundary setback from 35' to 15' as shown on the concept plan subject to 1 condition.

MOTION (CLANCY) AND SECOND (EWART) WERE MADE TO APPROVE STAFF RECOMMENDATION. MOTION CARRIED 15-0. APPROVED.

12. JEFFERSON PARK WEST - JIM SULLIVAN

5-SE-13-C

a. Concept Subdivision Plan

South of Fredericksburg Blvd., southwest side of Charlottesville Blvd., Commission District 5.

STAFF RECOMMENDATION: Approve variance 1 and the Concept Plan subject to 6 conditions.

Tom Brechko: Jefferson Park subdivision was originally approved back in 2007. Concept plans have a five year life. That original concept plan has expired prior to completion of the subdivision. There are two sections of Jefferson Park that were not completed. One directly behind the YMCA on Northshore and the other one is

located in the center of the project. The concept before you today is for the one directly behind the Y development. When this was originally submitted the subdivision included all of that property including the Y site with the addition of that project it changed or impacted the original design and layout for the subdivision so the application that is before you today is a little bit different in the layout than the original one. Staff in reviewing this and actually having discussions with the some of the adjoining property owners when the Planning Commission originally approved it there was a condition that the peripheral boundary adjoining Montgomery Cove development had a 50 foot no cut zone. Also they had originally a 35 foot peripheral boundary or a building setback along that subdivision boundary. Staff in the revised plan the applicant had requested a reduction from 35 feet down to 20 on the peripheral setback which is a request that can be considered by the Planning Commission. We have actually provided a revised staff recommendation with the blue sheets today. I will go over that in a minute. It is my understanding that the applicant actually is in agreement with staff's recommendation and recommended conditions. Our recommendation is that the peripheral boundary remain at 35 feet. We have also recommended the condition of the no cutting zone that borders Montgomery Cove 50 feet applies to kind of a no clearing area during construction of the subdivision and the subdivision's infrastructure. Upon completion of that subdivision and for any building sites the 50 foot no cut would not apply to apply to construction of a residential house but we added a condition that they would have to maintain a 35 foot no cut zone during the construction of the house within that peripheral boundary. Once the lot is completed and the property is sold, the property owner has rights to be able to come in and clear trees out of that no cut zone. Basically it is a three stage for protection. One is 50 feet during subdivision construction down to 35 when the home sites are built and after the home is completed, the property owners can then go in and if they want to clear trees in their back yard they can do so. The density overall in this subdivision is a maximum of 2.5. While the site specific density is higher for this portion of the subdivision at 3.8, with this proposal and what we have actually received for next month for the last phase of the subdivision it comes under the 2.5. It is actually less than I think it is 2.44 with some of the revised numbers we have received on that. It is staff's recommendation to approve it subject to the conditions noted.

Jay Taylor, 12277 Fredericksburg Blvd 37922 which is in Jefferson Park. I have owned lot for 4 years and lived there 2 years. I would like to point out that there is a contingent here if you would raise your hands. (About 10 people held up their hand). We have a number of concerns about the proposal and I would like to quickly go through those. We are requesting a 30 day continuance in this matter in order accomplish the following things. A chance for a meeting or meetings with the Jefferson Park Homeowners Association and Scott Davis the property seller and as we understand it Chant Beeler the buyer of the property to address

several things. One the proposed lot density. Two whether the development will be part of Jefferson Park and subject to its covenants and restrictions. Access to the Jefferson Park common area, access to the property through Jefferson Park and the corresponding impact on traffic volume. To what extent if any is a buffer being planned between the existing Jefferson Park and this proposed development; and the price range of the proposed development and its affect on Jefferson Park property values. Last but not least a chance for the Jefferson Park homeowners to retain an attorney to review the proposal and existing Jefferson Park covenants and restrictions. Again I offer the following support for this 30 day extension request. There have been no homeowners' meetings with the proposed property seller or buyer in attendance where they outlined their plans and answered homeowners' questions. There have been several phone calls with certain members there is a homeowners committee which was formed of which I am a member and have had some relatively brief phone conversions. So we know there are 59 lots and so forth. The only meeting that has been held was one that was hastily called last Tuesday evening where about 25 families that live in Jefferson Park showed up. There were a large number of concerns discussed and it was agreed that we should ask by a majority that we should ask for the 30 day extension. The Jefferson Park covenants have been modified more than once and contain clauses that pertain to our concerns that we simply do not understand. We have not had an opportunity to have an attorney review those clauses to clarify those points. The MPC staff recommendation refers to site specific density of 3.8 which we understand. The original concept plan expired June 14, 2012. We don't understand how the proposed development can be excluded from the amended and restated declaration of covenants and restrictions for Jefferson Park and still be a part of Jefferson Park's density calculation. We do not understand how a second undeveloped portion which is shown on the plat at 30 lots in the middle of Jefferson Park has been taken into account in this density calculation or if those remaining three lots will also be subdivided into a number of others. The original Jefferson Park marketing materials refer to houses starting at \$400,000. I can personally testify that when I bought my lot Debbie Elliott Sexton who was a real estate person representing all sales in that area told me that there would be smaller houses in the range of \$450,000 developed in the proposed property. We have heard conflicting data since then about houses in the \$200,000 to \$300,000 range but that has not been confirmed. The Jefferson Park homeowners believe the common area facility mainly the parking and the pool are undersized. There are 16 covered docks out there now. There are 16 more covered docks currently under construction which will additionally add to the traffic and parking.

Longmire: Mr. Taylor there is one minute remaining and another person wishes to speak. Is there any way...

George Ewart: I would like to ask for a time extension.

Taylor: The Jefferson Park homeowners are concerned about traffic that will result from this. In looking at the KGIS material there is something called Possum Valley Lane which directly across from one end of the Y property and looks like to us a possible cut could be made there to Northshore if a different if a new entrance was desirable. There is also an entrance that would be available immediately after you enter the main Jefferson Park entrance on the immediate left that would also minimize the traffic in the rest of the subdivision partially on Fredericksburg Boulevard. The proposed develop as we understand it has lots backing up directly to the houses on one side of Fredericksburg Boulevard which is in Jefferson Park. The Jefferson Park homeowners are concerned that there is no buffer as far as we know planned or contemplated that would screen the two areas at all particularly if they are not subject to the Jefferson Park covenants and restrictions. Two more quick points. The Jefferson Park homeowners think that the hiring of an attorney may be necessary to work out some of these complexities. We have simply not had time to do that. Finally we think that the homeowners' committee at the very least should have an opportunity to meet with the seller of this property and the buyer and surely we could resolve our concerns and we need some time to do that.

Neal Smidt, 12444 Amberset Drive. If you don't mind real quick I have a handout. The handout is no more than a copy of the minutes from the meeting of June 2007. The reason why I give this to you is I think there is a couple of things that we are disappointed in. One was there was an agreement reached between three parties and that was Montgomery Cove Homeowners Association, Scott Davis with Jefferson Park and the Metropolitan Planning Commission. Our concerns were a couple of things. One was South Northshore Drive is considered, it is designated a scenic highway. It was one of the blueprints for whenever MPC developed their tree conservation program. We were concerned about the buffers in the hardwoods. We are concerned about drainage from the property from Jefferson Park. We are really disappointed to be honest with you that Scott hasn't come to us and mentioned what he is planning on doing. That is what neighbors do. When our property was developed and it was a farm the county came in and said we are worried about the drainage. So across our neighbor's property and ours they built a concrete ditch to handle the flow from the Prater farm which is now Jefferson Park. Well know and if you look at the notes there a couple of things in here that we don't understand why the concern isn't equally there if you go through this. First off there is a precedent for keeping a no cut zone even from the builder. If you look at what Covered Bridge did and this is on page 13 on the top they had only the homeowners association could approve cutting in the no cut zone. That was for a specific reason to make sure everybody's property was protected. If you also look down on 13 it was Mr. Davis that suggested the 50 foot no cut and even there he said now I can't guarantee that somebody won't want to put a pool in. It wasn't I

can't guarantee a builder might come in and buy twenty lots and tear out all the trees. His concern and we all agreed an individual homeowner should have the right to do with their property as they see fit within reason. If you go along to page 14 Mr. Clancy is probably the only one that mentioned specifically that could have said what about the builder. But it doesn't specifically say that it says as long as an individual can do it we are okay. If you go to page 15 I asked that specific question. The Commission Mr. Donaldson said the Commission does have the discretion to put a not cut buffer zone in, but he agreed with Mr. Davis that ultimately the individual homeowner should have the right to do with those trees. It wasn't the builder, the multi-home owner or the multi-lot owner. The conversation was always around the individual having the right. We agreed with that. If you go on down Mr. Carey brought up that I am concerned because these are backing up to Montgomery Cove homeowners. Mr. Davis said well we are going to be very similar to Montgomery Cove Homeowners. If you go to the next page, I am sorry same page paragraph up he says these lots are going to be 160 to 180 feet deep. Now we are hearing they are 110 feet deep. We are also hearing they are 70 foot wide. If you put a 35 foot setback on there what kind of footprint is that and is going to happen to drainage?: Are they going to come into Montgomery Cover Homeowners and say well here is the ditch we are going to widen this ditch on your property to carry the flow. These are concerns that we had that we felt our agreement between all three parties addressed. When he put the Y there I don't think he heard any opposition from the homeowners of Montgomery Cove. Whenever he proposed an elementary school there we did not oppose it; we understood because we thought the agreement would last that buffer would stay there and be protected. So we felt that is between Jefferson Park what they do. All we are asking is that agreement that everybody agreed to and if you read the notes it is not ambiguous. It is pretty clear that everybody was concerned about the individual homeowner, not the builder coming in tearing down all the trees. I am going to ask that County Commission that MPC uphold the original agreement and protect the homeowners on both sides. Thank you.

Scott Davis: PO Box 11315, Knoxville 37939. I missed you guys. It has been a while since I had the opportunity to come up here and welcome to the new faces and appreciate your service on this body. MPC staff is correct. We did agree to the 35 foot buffer. We did agree to the 50 foot no cut and we do agree to construction of the sidewalk up along the main entrance to connect the road together. I do not have a problem with that at all. As you all know originally we had 119.8 acres here on this property to begin with. In the May 10th, 2007 MPC staff meeting staff recommended 3 units per acre. I voluntarily and also out of consolation to property owners and the folks at Montgomery Cove; I voluntarily agreed to reduce that back to 2.5 units per acre when MPC staff was recommending 3 units per acre. Now here I am trying to apply for less than 2.5 units per acre and we still have opposition. You all have heard me say this before

and those new you may not have but if you are building a home for the second coming of Christ somebody has got to raise cane about it. If you look at the original concept plan the original concept plan for this portion of the property was for 75 foot lots that were roughly 120 feet deep, some were 110 feet deep. In all due respect to Mr. Schmidt he has been wonderful. He and I have had a great working relationship over the years. Look at the original concept plan. The original concept plan showed smaller lots for this portion of the development which is exactly I am submitting for now. The YMCA took out 4.66 acres of the property. I donated 3.66 acres to the Y. They purchased an additional acre from me. The total development instead of 119.8 came down to 115 plus or minus. If you calculate the whole density for the whole subdivision I am at less than 2.4 units per acre. It was always intended to be mixed use with the lower priced homes starting from Northshore Drive backing up to the Y increasing in value as you get to the top of the hill and back down toward the lake. My intentions have never changed. My concept plan is almost identical to the original concept plan except for this much difference on lot sizes. The total number of lots has been reduced for the whole development. So we are now down below 2.4 units an acre. To my knowledge I have met all the criteria as per MPC staff recommendations and requirements. I respectfully request ask that you approve this as submitted and as recommended by MPC staff. I will be glad to take any questions if anybody has any.

George Ewart: I think a 30-day postponement is warranted so that everybody can sit around and have a discussion. Scott I don't know what kind of information has gone back and forth. It is sure good to have a face to face with a big crowd so there is no ambiguity here. I make a motion that we postpone this for 30 days.

MOTION (EWART) AND SECOND (PIERCE) WERE MADE TO POSTPONE FOR 30 DAYS.

Davis: Am I allowed to speak to that.

Longmire: In just a moment sir.

Clancy: I am just a little confused. Our staff recommendation states that we are going to maintain the 50 foot no cut zone no clearing zone along the subdivision peripheral boundary. We are denying the 20 foot setback and maintaining the 35 foot peripheral setback denying the 20. If you agree to all that where are we at odds here? Mr. Schmidt can you, I am sorry Scott. Where are we at odds?

Smidt: It was our contention that the ultimate homeowner would have the right to deal with those trees in the no cut zone as they saw fit. The conversations in the meeting was about the ultimate homeowner building a pool, doing different things not wanting some trees wanting other trees. What we are saying is what I understand is being said that Scott will develop and not touch the trees but if the builder wants to come in and take out the trees at least up to

the 35 he can do that. In other words if he buys 30 lots right together he can just clear-cut all those trees.

Clancy: I had my light on earlier because Tom you addressed that. You said that only the homeowner it doesn't whoever buys the lot the builder who builds the house has to honor the 50 foot no cut zone is that right or the 35 foot peripheral. They have to maintain the 35 foot peripheral.

Brechko: The 50 foot no cut would apply during the construction of the subdivision and the infrastructure for that. If we were dealing with a situation where each lot were sold to a future homeowner, they come and get their permits, they decided where they want to place the house and what trees they want to remain, it wouldn't be an issue. If it is sold to somebody that comes in and builds the houses to sell then that is why I put in the recommendation of the no cut within the 35. The peripheral setback would establish where their building setback is and it would continue to provide that protection at least for the trees in the 35 until the house is completed. Then when somebody buys that house they can decide if they want to take any additional trees out. If it was a case that that future homeowner would be the one that comes in and gets their permit I don't think it will be an issue, but we can't guarantee that is going to happen. You may have somebody build all these house and sell them and that is why ... If you can build up to 35 I don't see how you could tell them you can't clear up to 35.

Clancy: Mr. Schmidt you all are not happy. You all don't agree with just a 35 foot to the next level down.

Smidt: The next level down. We understand the individual homeowner. As he said somebody buys a lot, contracts with a builder to build a house for him and says I want to go to the 35, we understand that. What we are saying is where someone comes in and buys multiple lots and we just found this out. Apparently there are perspective buyers for that entire area. They just come in and clear cut back to the 35. Those trees are valuable to both sides of that property. We understand individual homeowners' rights, we just feel that the 50 foot buffer should be held until the ultimately homeowners, the individual homeowner purchases that lot or house.

Clancy: Which would in essence if somebody bought that whole development from Mr. Davis he couldn't clear anything on those lots. You are looking at a 30-40 foot on some of these lots a 40 foot home site that is all that is left.

Smidt: Well two things go back to what was put in the original thing was Montgomery Cove moved their setback on the front up to protect trees on the back of the property. So they did it and addressed a way to help protect it. We are still saying the homeowner could do it. I don't whenever Scott I quoted him at 160 and 180 it is in the notes that is what he said at the meeting. That is

where I got the information was from you. So that is why now it's reduced. We feel that still the builder that comes in that buys multiple lots should have to honor the 50 foot cut unless an individual buyer prior to construction and as Mr. Brechko said gets a permit and says I am building this house and I am contracting to cut there trees down.

Davis: There was a meeting held with the homeowners association. I was not invited to that meeting. I supplied a three page email that went out to every property owner in Jefferson Park specifically outlining exactly what I was proposing to do; what I had originally proposed to do. So I have had...

Citizen called out he did not.

Longmire: Madame if you wish to speak you will have to wait your turn.

Davis: Now if it was not and let me back up. I apologize she very well may be correct. That was sent to the homeowners association committee and Mr. Bill Tolley it was sent to him and Mr. Tully told me that he forwarded it to the property owners. If it didn't get to them I apologize I forwarded it to Mr. Tully and the committee members. What I am proposing here is 100 percent within MPC's parameters to approve. I am not requesting or asking for anything that is outside what you all can approve here today. Having additional meetings, going through this process again does not benefit anybody at this point because I have been called a liar. I have been told I am cheating the system. I have been told my integrity has been brought into question. Jefferson Park is the 39th subdivision I have developed in Knox County. I have come before this board I don't know how many times if any of you all can look at me and tell me that I have not done exactly what I have always said I would do please let me know. I have a lot financially invested here. Mr. Ewart in all due respect yes 30 days does have a significant financial impact. I don't know if any of you all have dealt with banks lately you start paying interest on several millions of dollars it adds up pretty quick. So there is no justifiable reason I have heard today why you all cannot and should not approve this as recommended by MPC staff.

Longmire: I would like to speak my very firm opinion that will we will have civil discourse. There will not be name calling. There will not be shouting out. We will do this in a civil manner. Sir would you like to respond?

Taylor: To the best of my knowledge of the Jefferson Park homeowners' committee there has certainly been no name calling. I have known Scott for several years.

Longmire: That is fine sir. Would you speak to the issue?

Taylor: The issue for us is two fold. We have many millions of dollars invested as homeowners in Jefferson Park and we are concerned about property values. Furthermore we have lot of questions about the covenants and restrictions not applying in Jefferson Park if it is part of Jefferson Park.

Longmire: I understand. My question is did the homeowners' association receive an email from Mr. Davis? Not the association but the ...

Taylor: I did not receive an email.

Longmire: You sent it to whom Mr. Davis.

Davis: I sent to the HOA committee Mr. Bill Tolley heads up that committee. Mr. Tolley informed me that he did forward that to the members of Jefferson Park.

Longmire: Thank you sir. That will end the discussion on that. I think we have heard your point sir. I do want to go back to Commission because I have some lights on here.

Smidt: May I say one more thing?

Longmire: If it is very brief.

Grey guy: We are requesting a 30 day extension so that we can have an attorney review and that we can continue some dialog with Scott but he if does not want any then we will simply have an attorney review.

GEORGE EWART CALLED THE QUESTION.

Michael Kane: My question goes back to the motion that was voted on back in 2007. It says the motion was made to approve staff recommendation deleting two entrance conditions number 6 and adding that the developer have a 50 foot no cut zone for all lots contiguous to Montgomery Cove. Is there any reasonable understanding of what developer means? I think it would be hard in some ways. I understand in terms of the site infrastructure aspects of a developer when you start looking at developing individual lots whether somebody comes in and buys four lots and builds houses verses somebody that comes in and buys one lot and builds a house. I don't know how the County can enforce something like that. I don't know how they would know which one is the developer and which one is not a developer. I just wondered if we had a common understanding of what that was. From a legal standpoint that is really important in this particular case.

Brechko: When I looked back at the minutes and the wording of that motion I wasn't sure what it meant or how you would enforce it. That is why I tried to get more detailed clarification what I at least

interpreted that to be. I guess if somebody comes in and is building 59 houses in there I guess they are the homeowner. They are building until that point that they sell it. Somebody can interpret that they have the right to clear everything on the property where they put it. I tried to at least do a phased protection of that area. They may not in all areas need to clear all down to the 35 foot.

Kane: I certainly appreciate your proposal and it does provide more definitive information in terms of what to interpret. The second part is really a comment that I certainly understand the concerns that the Jefferson Park residents have on this additional development and this other one that may be coming in the center of theirs. I am not really too sure how we get involved with understanding the details of whether they come within their homeowners association or any of that. I certainly understand and I would support a postponement just to allow those folks to have an opportunity to have some details before this thing really moves forward. I think they have a right to understand that.

Bart Carey: Mr. Taylor you mentioned that Mr. Davis had not been involved or included in communicating with your group. Was he invited to that meeting? Was there any reason that he couldn't have come to that meeting?

Taylor: There have been phone calls between individual members on the committee and Mr. Davis. They were relatively brief and not definitive is what I would say. Whether he was invited, I didn't invite him. The meeting was originally scheduled on Sunday and then rescheduled for Tuesday. Bill Tolley is the chairman of our committee. He was called on a personal emergency to Alabama. A lot of things have happened. I don't know if he was invited. I don't know what happened. I assume he was not if he says he was not.

Carey: So there was no discussion in your meeting of why the developer wasn't there?

Taylor: I was not at the meeting that day. I was sick that day. I sent my wife.

Carey: If a developer has not been cooperative in communicating with a group that is looked at sometimes than if he is ready willing and able and available.

Taylor: I cannot say Scott has been uncooperative. What I am saying is there hasn't been that level of discussion that we would like to have for whatever reason.

Carey: The notices go up and are made available to your group. It is a standard procedure not as a courtesy but as a law. I assume you guys have known about it for a while. The system is designed to work within those guidelines. This intersection the part that is not being today has nothing to do with our conversation today. That is a

worthwhile discussion topic for you for another time. That would have nothing to do with this approval today.

Taylor: I understand that.

Carey: It sounds like he has done... well he has made himself available. Obviously you all have his phone number. I think he spends a lot of time on that property. I kind of consider that. I have one question maybe this is Mr. Smidt. I know that the buffer is obviously a big concern there. Before I ask Mr. Brechko as far as the development goes here with the infrastructure the infrastructure is not in place presently is that correct.

Brechko: It is my understanding that is correct. Scott can answer better whether or not they have some of the things in place. I don't think anything has been done to the site since some of the initial work out there. It would follow this approval and the design plan approval.

Carey: Are there roads in place now?

Davis: No. The road is stubbed out if you look up on the map there in the bottom left hand corner the road is stubbed out for the property. It has been stubbed out there since we developed the original property. So there is no surprise as to where the access was going to be. Water, sewer, electric everything is brought to that stub out point. In addition the separation, big huge concrete structures are required for sediment control and that was all put in for consideration of developing of that portion of the property. So that portion of the infrastructure is in place.

Carey: Who would be doing the next phase? Who would be doing the next phase of development?

Davis: Who being...

Carey: The applicant would carry it from this point on?

Davis: All I am doing is coming back right now and having it because my concept plan expired. I have to resubmit for concept plan because the old concept plan expired. Also the old concept plan did not include the Jefferson Park property, it did include the Jefferson Park property. All I am doing today is trying to get a concept plan approved. That is all I am asking for is approval of the concept plan which had to be amended because the first one expired and the YMCA property was put in there. That is all I am asking for.

Carey: Mr. Smidt I wanted to try to get a clarification here. I know that property just from driving by and that has been a while that is pretty heavily wooded there and obviously your concern is that the clear-cut goes from 50 down to 35 reducing 15 feet of hardwoods or just trees that separate you all.

Smidt: It is more than that. If I can address it. I don't know what comes first or when. If you look at the back of our property it is where the mouth of the ditch natural drainage comes in. These heavy rains that we had I can tell you our land does not drain into that ditch. It flows separately and it goes off to the side and then drops down. The bulk of the water comes from a natural opening and a natural ditch and I am sure your all's drainage people have that. My concern is if you go in start clearing and building houses back to the 35 foot what is the plan? Where is that water going to go? Because I can tell you and you can ask my wife the rains we have had the last couple of years that ditch has been burdened. My concern is if you build this many houses and cut back on the trees and the vegetation, the natural stand what is the plan. Frankly no offence we think we have given enough. We don't want a bigger ditch on our property.

Carey: No you do not need to. I would not suggest that either.

Taylor: Well right now that is the natural drainage. The ditch is in our property. It is six foot off the property line into our yards. A concrete culvert, open ditch. So all we are asking is this is a concern that we have that this be in addition to the trees the setting a buffer between what I am hearing could end up being \$200,000 to \$250,00 homes and have million dollar homes. Also the damage that could have happened to the Montgomery Cove yards and properties if the drainage is not addressed by cutting and over ...

Carey: Is there a no cut zone in your neighborhood?

Smidt: No there is not. Again I will go back on this. The house was built I think our lot is 180 foot deep with a ditch on our side that goes through. We have maintained as many trees as we can. We understand the individual homeowner. The County passed the tree conservation plan. I think it is up to you. All we are asking for is a buffer and let the ultimate homeowner make the decision.

Art Clancy: It is hard to tell. It is hard too discern where we stand on this no cutting zone. If we look real hard at condition number 4 I know it doesn't give us 50 feet of no cut zone but at the very end of it it does say "the no clearing zone does not restrict clearing for the construction of a residence except that the 35 foot peripheral setback shall remain undisturbed during the construction of the residence" which means whoever Mr. Davis sells it to can't come in there and clear. He can clear into the 50 if he cut into the 50, but he can't cut into the 35 at all. You are still getting 35 feet if we pass it like this. I would much rather see Mr. Davis I know this doesn't matter to you but I would much rather see a townhome development or an upscale assisted living place on this property. I know it is good to sell land when you can sell it. I am sure the neighbors would probably like that too. I am concerned at the depth of the lots at the size of the lots but I swear for the people in

Montgomery Cove I think a 35 no cut zone until somebody actually buys the property is a pretty good deal. I know it is not 50. But 50 doesn't, 50 if you buy this whole plat unless you wait until somebody buys a house that you haven't constructed it restricts any kind of and even the banks are kind of restricting that now. It restricts any kind of speculative house.

Longmire: No no no. The question has been called. We are going to take a vote. The motion is to postpone for 30 days and I have a second on that motion. That is the only motion that is on the floor right now.

Upon roll call the Planning Commission voted as follows:

Anders	Yes
Carey	No
Clancy	No
Cole	Yes
Ewart	Yes
Johnson	No
Kane	Yes
Kelly	No
Lomax	No
Pierce	Yes
Roth	No
Sharp	Yes
Stowers	No
Tocher	Yes
Longmire	No

Failed 7-8.

MOTION (JOHNSON) AND SECOND (LOMAX) WERE MADE TO APPROVE VARIANCE NO. 1 MOTION CARRIED 15-0. APPROVED.

Stowers: Quick question are we voting on this one or one of the other one. The blue one.

MOTION (JOHNSON) AND SECOND (PIERCE) WERE MADE TO APPROVE CONCEPT PLAN SUBJECT TO SIX CONDITIONS. MOTION CARRIED 13-2 (SHARP, EWART)

b. USE ON REVIEW

5-F-13-UR

Proposed use: Detached dwellings in PR (Planned Residential) District.

STAFF RECOMMENDATION: DENY the request for the reduction of the peripheral setback from 35' to 20'. APPROVE the development plan for up to 59 detached dwellings on individual lots subject to 1 condition.

MOTION (JOHNSON) AND SECOND (PIERCE) WERE MADE TO DENY THE REQUEST FOR THE REDUCTION OF THE PERIPHERAL SETBACK AND TO APPROVE THE DEVELOPMENT PLAN PER STAFF RECOMMENDATION. MOTION PASSED 15-0. APPROVED STAFF.

Final Subdivisions:

13. STEVEN & PATRICIA JOHNSTON PROPERTY

2-SB-13-F

Northwest side of Schaad Rd, northeast of Beaver Ridge Rd.,
Commission District 6.

STAFF RECOMMENDATION: Deny Variances 1-2 and DENY Final Plat

Tom Brechko: Under the subdivision regulations anytime there is an additional subdivision of lots on an existing joint permanent easement it requires review by the planning commission. We have a request for splitting an existing 4 acre tract into two lots on an existing jpe that is substandard under the sub regs. It doesn't meet the street standard requirements and in this case it doesn't meet the minimum standards we have for joint jpe when there are less than 6 lots of having a 25 foot wide paved or improved surface. Staff's recommendation of denial is based on denial of the variance request. A few years ago there was a review by the planning commission of a subdivision on this road where it was the same issue well similar issues before the planning commission. We had recommended denial because of the width of the existing driveway. At that time it was identified that this was just property for family members and that it was not a problem to them utilizing that existing road. The Planning Commission approved that subdivision at that time without any improvement to the driveway serving the lots. There have been additional subdivisions out there that have been done by deed only. At this point with this split of one lot into two we actually have there would be ten lots that are utilizing that driveway or access. Staff is recommending denial of the variance request and therefore denial of plat.

Steve Johnston, 6811 Grassy Creek Way. I apologize for my voice. I have a cold. My wife and I are giving my daughter and son in law 2.7 acres of land so that can build a house. I lived in this place since 1974. There has never been any problem with any kind of vehicles coming in or going out that road. We have had everything from fire trucks to concrete trucks and everything else through there. There has never been a problem with flow of traffic. My son-in-law Eric can give you better information.

Eric Estep, 7936 Oak Ridge Highway, Knoxville, TN. I am his son in law. My wife and I want to build on her ancestral land. This land was is he got from his father in 1974 and his father before got it in 1946 and his father before had it pre-1890. You all have the staff has requested denial of the variances and denial of the plat due to lack of physical hardship and safety concerns. The lack of physical hardship I don't see that. If anybody realizes how much it costs to widen a road nine foot asphalt almost a half a mile. It is \$35,000 plus. That is my physical hardship. Safety concerns; I have a letter from Karns Fire Department CEO and President. They sent a truck out and I have a letter from them. I also have pictures that I took. I had them bring their Class A pumpers, the biggest one they had. I had Rural Metro EMS supervisor come out. They said they had no problem with the medic unit getting ingress and egress out of the property. Talked to the Sherriff's Department and a lady said well we could send someone out but she said if a fire truck and medic unit could get out there is no reason that a cruiser would not be able to gain access there. What I am asking is that you all give us variance so my wife and I can build and we can live next to her parents on the property she has lived at her whole life.

Longmire: If a fire truck were going in and you were coming out at the same time, you both could pass.

Estep: Yes ma'ame and I even have pictures of it.

Longmire: Do you wish to make that part of the record?

Estep: Yes I can give you the pictures.

Longmire: Alright if you will give them to Mr. Brechko please and whatever letters you wish to give to him.

Estep: Also I was a fireman for 12 years. I am not going to do something unsafe like this. I know about driving emergency vehicles.

Longmire: Another question I have the last time it came up it was because of family members only. The only people that live on this JPE are members of this same family?

Estep: No ma'ame

Michael Kane: Question I wanted to make sure we had that information on the record if he proposed that he had done all those things. I think we needed to have it. I guess it is coming around.

Longmire: The pictures and the letter from the fire department is that correct?

Kane: We need the letter from the fire department and Rural Metro. Have you got that?

Estep: Verbal.

Kane: Verbal on that. The problem that I have is that we have county standards and county policies and they are done for a reason. I kind of like to know what conditions might be on this piece of property that would essentially allow us to have variance from that. I would like to have Ms. Pionke to comment on that if she could.

Pionke: I am not sure why we would waive our standard conditions. I have nothing to go by to permit an 11 foot wide roadway. That is the width of a single lane traveling in one direction.

Carey: In looking at this in our plat our map it is a very elongated property. Mr. Johnston your house is one on these on the map. Is that correct?

Johnston: Yes sir but I can't see that.

Longmire: Is your house at the end or is it toward the road?

Johnson: Right as you cross Grassy Creek my house would be on the left.

Carey: Is it on the piece of property, the hatched piece of property. Maybe that is not so critical. I guess this whole thing is all those houses on property that was your old family property? Yes. Over the years if this is not all family you all have sold off lots over time. Is that right?

Johnston: Yes. My parents sold all the lots except for the one you spoke of while ago where one of the ...

Carey: Here is what I am working towards. You kind of worked your way to the end of the road so to speak. You have used up all that was there plus more. For us to make an if you wanted to save something for family members maybe that consideration should be made through the commercial aspect of selling those other lots. You have already overstepped how many we can allow and going past that at this point would be a real. That is really breaking the rule pretty hard so we have to consider it that way. I just wanted to understand if those other houses were on property that was at one time your all's property and you all did sell those lots off. Thank you.

MOTION (CLANCY) AND SECOND (JOHNSON) WERE MADE TO APPROVE STAFF RECOMMENDATION. MOTION CARRIED 14-1 (Roth). VARIANCE AND PLAT DENIED.

- * **14. RHOTON & BURGIN PROPERTY** **5-SA-13-F**
South side of French Rd, east of E. Governor John Sevier Hwy., Commission District 9.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- 15. WESTMINSTER RESUB OF LOT 1R, GREEN CORP. AND MONTGOMERY PROPERTY THE** **5-SB-13-F**
South side of Westland Dr, west of the S. Northshore Dr. intersection, Council District 2.

STAFF RECOMMENDATION: Deny Variance 1 and deny Final Plat

Tom Brechko: The subdivision regulations have a requirement that any subdivision or resubdivision of land requires the identification and dedication of any right of way that does not exist along the street frontage for the property based on the major road plan. The requirement here is 44 feet along Westland Drive. The existing right of way out there is it varies it is 20 to about 29 feet from the centerline. The requirement is dedication of 44 feet from the centerline. So a variance is needed from that standard. The applicant is not proposing to provide any right of way dedication. City engineering has indicated that they would not support the variance request here and staff supports the engineering's request and recommends denial of the variance and therefore denial of the plat.

Matt Dawson: Smoky Mountain Land Surveying, PO Box 9691, Knoxville, 37940. I prepared one or two small exhibits. I don't know that you can see them from here. If you review the true right of way out there one of the reasons for denial on the comments for the engineering was that the pavement appeared to be off center. I believe they are going merely off the KGIS plot and it is inaccurate. If you review the plats on the opposite side of the road from us they have all received variances ranging from 1990 to 1995 reducing the right of way to 25 feet out of the centerline showing the physical centerline not only the centerline of the right of way. Everything on the opposite side of the right of way from us from Sherwood to Northshore is 25 foot or less. Also the adjoining property to the east of us which is included in the smaller lot on the plat has a reduction to 20 foot due to an existing wall and the highway plans that tie into Northshore

indicate that is the original location of the right of way with the approved variance that it has. If you continue westwardly from our proposed right of way the next available platted lot is where Stagecoach Lane I believe comes in. It is platted 30 foot out of the centerline and this was in 1996. The other pieces in between are well established residential pieces that aren't going to be reasonably well subdivided in the future and they won't be put before the major road plan for this dedication. Since the right of way width is so small through previously granted variances all the way from Sherwood to Northshore to dedicate 44 foot out of this piece of property would just put a big notch out of something where they are not going to gain that right of way width in my lifetime due to the existing variances unless we go through there with a bulldozer and tear every other house down. I am requesting a review based on the existing conditions. The hardship is that we don't want to give up that property when no one else around us has had to and it would create a notch in the right of way which wouldn't be able to be utilized.

Chris Howie, (40) City Engineering. It is true in the past that there are several properties that did not have to dedicate that right of way. At that time I can't tell you what the vision plan for that area was. However currently there is an interest in having the potential to have sidewalks on both sides of that street in that area. That is something that we see in the future for that area and to prevent or make one additional property that much more difficult to obtain that right of way for future sidewalks we would ask that that variance be denied so that we would be able to have that right of way for that future use.

Art Clancy: We are asking that they deed over a right of way for sidewalks down Westland. Is that the intent? Okay. That is all I got.

Wes Stowers: If it went to 25 feet wouldn't it still be possible to put a sidewalk in City Engineering?

Howie: It may be possible however with some of the constraints there if you notice the floodway, the topography in that area is somewhat more difficult than a flat edge. I can't tell you exactly what it would take in order to grade that to a where you would be able to put a sidewalk on that side of the road.

Stowers: You would have the same issue with all the other 20 and 25 foot setbacks to the adjacent other parcels though correct?

Howie: It would be the same problem on some of the other ones. This one is probably worse than some of the others.

Right of way would need to be acquired in most of those locations as well to get sidewalks in.

Stowers: Are there any plans right now to put a sidewalk in there?

Howie: It has not been designed at this point. It is more of a vision of what we would like to accomplish in that area.

Bart Carey: I think there has been some discussion about a greenway that might come through there. I am fairly familiar with this area. It would create a considerable. In other words there is property flanking his property on either side to the east and the west which hug right up against Westland. If you look at where it says Westland Road right where the t and I in Westland is on our map that house right there is smack against the road. This driveway comes off Westland Drive. If you go back east of there actually the house that is in part of this resub is close to the road. It would cut way into that front yard. I hope there is some kind of middle ground. You talked about if you built the sidewalk or greenway whichever it is going to be there is a floodplain. The property known as the Montgomery property is about 4 feet below the present road grade and to build anything there you are going to be filling that floodplain. I think it would be a very limited of fill or width that would be taken in order to prevent from filling that floodplain. I hope there is a middle ground we can reach. I think maybe something could be given up. I think 44 feet is a lot to ask. The other side got off scot free to push it all one way. There is no way the road would make a curve and go into this area. The road is going to stay aligned the way it is. I think 44 feet is a lot to ask.

Dawson: May I make a proposal?

Longmire: You can make a statement. Would you like to make a statement?

Dawson: Yes. Also all the variances that we have spoken about to 20 and to 25 foot my plat is looking to get to have the existing right of way be larger than what everything else has already been reduced to except for where it adjoins the additional smaller lot that is shown there. The width from our existing line of survey to the centerline of pavement the center of the lot I believe is labeled as 29 feet. As it exists it is already larger than what's been approved for variances on everything around it. I might I have the idea that since the plat that is for the lot at the corner of Stagecoach further west of us which is the next platted right of way along Westland on the southern side, perhaps we could just revise the variance request to 30 feet. That way I could just throw a nice smooth curb on there and tie it into 30 foot. I only

give up a few feet and at least have something fit better with the existing right of way.

Longmire: Alright. Good statement.

George Ewart: S in lot 1R1 right now you are 20 feet off the centerline? We are asking another 24 feet be taken from that lot is that correct?

Dawson: I am sorry I didn't understand the question.

Ewart: Lot 1R1 which is the smaller lot.

Dawson: It has a preexisting variance to 20 foot from previous plats.

Ewart: Where are we talking about the right of way...?

Dawson: The entire frontage of the larger lot.

Ewart: We are going to jump down we are going to dogleg back up 20 feet. Is that correct Mr. Howie?

Dawson: That is what they would be asking for if the variance...

Ewart: I am asking him sir. Sorry about that.

Howie: That is correct.

Ewart: What would happen I mean why wouldn't you ask for additional right of way in the where it is not where 1R1 is since this is a whole replatting? Is that correct?

Howie: Since the variance was already approved that is an approved variance that we can't go back and say we would like to have that additional right of way for that section as well but since MPC has already granted that variance in the past that variance it follows with the property from that point on.

Dawson: Also if you were to dedicate...

Ewart: Sir. I am sorry. So if we go in and we came back and did a 30 foot I guess right of way dedication along the centerline of Westland Drive on that property that what would give us a sidewalk to some degree?

Howie: With the topography out there I can't guarantee that that would be enough property to do that because of the slopes of the land. Without having a more detailed design I couldn't tell you exactly what we need; however if we get the

full amount that has been requested we can feel confident that we would be able to put sidewalks in that area in the future.

Roth: I just wanted to say in looking at this layout and the houses that are as Commissioner Carey pointed out there are houses that are right on the road on Westland Drive I don't see what we gain by restricting, by increasing the right of way in that particular area.

MOTION (CLANCY) AND SECOND (JOHNSON) WERE MADE TO APPROVE VARIANCE TO REDUCE THE REQUIRED RIGHT OF WAY OF WESTLAND DRIVE FROM 44 FEET TO 30 FEET. MOTION CARRIED 14-1 (Kane).

MOTION (CLANCY) AND SECOND (JOHNSON) WERE MADE TO APPROVE FINAL PLAT. MOTION CARRIED 15-0. FINAL PLAT APPROVED.

- * **16. HARDIN CROWN CENTER** **5-SC-13-F**
 South side of Hardin Valley Dr, east of Pellissippi Pkwy., Commission District 6.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **17. RESUBDIVISION OF KINLEYS KANYON SUBDIVISION** **5-SD-13-F**
 East of Roberts Rd, south of Shelton Rd., Commission District 8.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- 18. CASCADE FALLS RESUBDIVISION OF LOTS 69R & 42-44** **5-SE-13-F**
 Southeast end of Laurel Falls Lane, south of Cascade Falls Lane, Commission District 6.

STAFF RECOMMENDATION: Deny Variance 1 and DENY Final Plat

Tom Brechko: Since the actual meeting on Tuesday when we discussed this item the applicant has worked with County Engineering in trying to address the issue of the grade and length of the joint permanent easement. They have come out with an new design that is acceptable to County Engineering. We have a revised plat that is approvable still subject to a variance. You worked out the variance? There is no variance needed? Okay. Without the need for the variance and staff is

recommending approval of the revised final plat. It does require a waiver of the 9-day rule before that can be done. Things have been worked out and this is an approvable plat.

Longmire: Mr. Brechko, we do not have a copy of that do we?

Brechko: No you don't.

MOTION (CLANCY) AND SECOND (JOHNSON) WERE MADE TO WAIVE MPC'S 9-DAY RULE. MOTION CARRIED 15-0. WAIVED.

MOTION (CLANCY) AND SECOND (JOHNSON) WERE MADE TO APPROVE REVISED FINAL PLAT SUBJECT TO KNOX COUNTY ENGINEERINGS APPROVAL. MOTION CARRIED 15-0. APPROVED.

A BREAK WAS TAKEN AT THIS TIME.

- * **19. THE MARKET PLACE REPLAT OF LOT 6** **5-SF-13-F**
Southwest side of N Cedar Bluff Rd, northwest side of N Peters Rd., Council District 2.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **20. SCOTT & JEAN WILHOITE - RIVERMIST LANE** **5-SG-13-F**
Northwest side of Chandler Rd at northeast side of Rogers Island Rd, Commission District 5.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **21. YELLOWSTONE ADDITION RESUB OF PART OF LOTS 5-7** **5-SH-13-F**
At the southwest intersection of Sylvan St and McDonald Dr., Council District 1.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **22. LAVAUN ADDITION TO FOUNTAIN CITY RESUB OF LOTS 2-3** **5-SI-13-F**
South side of Dutch Valley Dr, east of Bruhin Rd., Council District 5.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

* **23. KENNON PARK RESUB OF LOTS 7 & 8 AND UNPLATTED PROPERTY**

5-SJ-13-F

North side of Kennon Park Lane, north of Kennon Rd., Council District 2.

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

Rezoning and Plan Amendment/Rezoning:

24. PHILIP M. GARRETT

East side Schaeffer Rd., southeast of Hardin Valley Rd., Commission District 6. Rezoning from PC (Planned Commercial)/TO (Technology Overlay) and BP (Business and Technology)/TO (Technology Overlay) to OB (Office, Medical, and Related Services)/TO (Technology Overlay) and CA (General Business)/TO (Technology Overlay).

12-D-12-RZ

STAFF RECOMMENDATION: RECOMMEND that County Commission APPROVE PR (Planned Residential) / TO (Technology Overlay) zoning at a density of up to 8.5 du/ac, subject to 1 condition.

Arthur Seymour, Jr., 550 W Main Avenue, Knoxville TN 37902 with Mr. Garrett and Mr. Parker. By way of background and how we got here today that matter was before you all your May meeting. There are two tracts and you can see them on the map up there overhead the northern most tract which was formerly zoned PC/TO you all recommended to go to OB/TO. Today we are dealing with southern most tract which is BP/TO. We asked originally for OB for that property. Just by way of background with the demise of the super bypass around Knoxville I assume it's demised nobody is talking about it anymore, this area is really not commercially oriented or business park oriented as it has been in the past. BP zone allows offices, manufacturing, etc. The most likely use for this property is apartments which are permitted in the OB zone. In reviewing the minutes from your all's March meeting you suggested that we go back and look at this and look at it as Planned Residential property. We have met with staff on numerous occasions, Mr. Johnson who is not here and Mr. Bruseau. This is what staff has recommended. We asked for more but we are happy with staff recommendation today planned residential at 8.5 units per acre on this tract. We obviously would have liked more after discussions and looking at the slope protection area on this property I think this is a realistic recommendation by staff. One we concur with here today and one we would ask you to approve today. We have

been through the Tech Corridor Development Authority on this and it has concurred with staff's recommendation. I have about two and one half minutes left. May I reserve that for rebuttal?

Longmire: You certainly may.

Nick McBride, 2032 Fallhaven Lane. I will be very brief. This density that the staff is recommending in our opinion the subdivision is too excessive. The density as I told you all two months ago around this property is 1 to 3 units per acre, 1 to 1.5 units per acre, 1 to 4 units per acre and 1 to 5 units per acre. Four years ago if we want to go back down memory lane as Mr. Seymour wanted to at that staff recommended no more than 6 units per acre. At that time they were asking for 12. They have been asking for 12 four years ago and they got 12 units per acre on the northern tract and against the 8.5 units per acre. I am concerned that if multifamily housing is allowed it will lower our property values, deprive existing homeowners of privacy and/or security. I was not here at Tuesday's meeting. I think Ms. Longmire asked the question about the grading and penalties. I think Mr. Seymour alluded that Mr. Garrett had inherited that problem.

Longmire: No that is not what he said.

McBride: Mr. Garrett got permits for what he did and he broke the rules on the northern tract. That is what County Code said. That is all I had and I thank you so much for your time.

Seymour: There are varying densities out there at this time. Mr. McBride lives in Harrison Springs. Mr. Garrett lives on the tract and has lived there for a number years. When Harrison Springs was developed at 3 units per acre he did not object to that development. He lives right adjacent to it. Apartments are not incompatible. Density does not have to be spread out the same everywhere. If you look at some traditional neighborhoods in town you have a mixture. Sequoyah Hills is the first one that comes to mind. It has highly dense apartments down there all the way to big house on big lots. You find the same in all parts of the city. This property has no access to Harrison Springs. In looking at the area staff has concurred that multi family is appropriate for this area. It does not necessarily mean apartments. Most likely it does. At the density of 8.5 it is certainly compatible with developments that are being built along Pellissippi Parkway at this time. We would ask for your approval.

Longmire: While you are there Mr. Seymour would you speak to the violations please.

Seymour: Yes. It's a lengthy issue. The bottom line Mr. Garrett sold property down on Hardin Valley Road and had additional

property under option. I will not mention the name of the fellow. He was very fine but he got crossways with the financial crisis and was unable to complete the project. He had started grading. Grading was on Mr. Garrett's property because he had an option on it. He did not complete his plans within accordance with Knox County Engineering. Mr. Garrett was fined for it because it was his property and the work was being done with his permission. He has paid the fines. He is remediating the unfinished portion of that at a cost that will ultimately reach \$150,000 to Mr. Garrett. So he has been the County fine is a minimal portion of that. He has approved remediation plans that have been approved by Knox County Engineering and also have been approved by the Tennessee Tech Corridor Development Authority. If it will ever stop raining long enough he intends to complete that project very shortly. Is that correct? That in a nutshell is a brief summary in a long history.

McBride: If I am reading the maps correctly if you look at your map where it says PC/TO and if you go back and look at the 2007 maps that area right there was a do not disturb when they were trying to get 12 units per acre. That is not any of the property that was disturbed by the previous owner or the gentleman that had an option. What the county said was in the permit that Mr. Garrett got a little over a year ago the violation says that he filled in that area that was not supposed to be. It had nothing to do with the previous owner. Their own comment and it is in your packet it says a grading permit was issued so that the property owner could do grading work that is necessary to stabilize the property particularly the slopes located on the north side of the property. However the work that is being performed is not necessary to stabilize the site. The grading contractor is cutting a large quantity of material from highest elevation and is filling in the drainage way on the south side of the property. This is not at all essential for site stabilization. What actually they did we don't have any current topography to see how the land is to my knowledge unless Mr. Seymour has one, but all of that has since been filled in. Your aerial photos show that.

Longmire: I understand that. That is a problem for county codes.

McBride: Okay. You asked Mr. Seymour and I just wanted to rebut.

Longmire: I appreciate that Mr. McBride. I do. Right now we are dealing with one area and we are dealing with the rezoning. I would like to apologize for the coughing. I love spring. Spring does not love me. I feel pollinated all the time.

Art Clancy: It is obvious that the piece of property is somewhat unattractive in a fairly serene setting out there. I feel like let's

get something going on it. Let's give the owner of the property a chance to develop it. He has to come in with a concept plan and that has to be approved.

MOTION (CLANCY) AND SECOND (JOHNSON) WERE MADE TO APPROVE PR PLANNED RESIDENTIAL/TO TECHNOLOGY ZONING AT A DENSITY OF UP TO 8.5 DWELLING UNITS PER ACRE SUBJECT TO THE ONE CONDITION.

Longmire: I would like to draw your attention to the condition which is no clearing or grading of the site until a use on review development plan has been approved by MPC. That is in writing. It is on record.

Herb Anders: We had some discussion having to do with buffers. I understand the concern of the adjoining property owners. With that 8.5 dwelling units per acre and I don't know what the total units planned in apartments; but in your plan I would encourage you to create as much buffer space or green space or something. I know there is not a lot of trees on parts of that property. I am not sure if it's any where on these. Something that would resemble an effort to create a buffer on that development property that is what I would like to see.

Longmire: When it comes back for use on review it would be nice to see that an effort has been made to buffer.

MOTION CARRIED 14-1 (Sharp). APPROVED.

25. RUFUS H. SMITH JR. & COMPANY

Southeast side Deane Hill Dr., northeast side Winchester Dr. Council District 2.

a. West City Sector Plan Amendment

From LDR (Low Density Residential) to MDR (Medium Density Residential).

4-A-13-SP

STAFF RECOMMENDATION: Deny MDR (Medium Density Residential)

Mike Brusseau: There are three separate applications here all associated with the same rezoning request. The rezoning was to go from the current R-1 to RP-1 zoning and the applicant requested 12 units per acre which is the upper end excuse me about the middle of the medium density range in the city. Therefore because the density was above the six was six or above that warrants the sector plan and one year plan amendment request for MDR. That being said we are recommending denial of the request for MDR. This side of Deane Hill Drive basically from Morrell all the way to Lockett is all for the most part single family. There are a few duplexes there but the zoning is R-1. The only higher density you have got is the

development that is kind of behind Wellesley Park and Dean Hill Shopping Center. It would be to the far left of the map you are looking at. There is medium density there but that has multiple access points and at an intersection of fairly major intersection as well as adjacent to commercial development. This site sits surrounded by large lots, residential to the east and then smaller lot residential but single family to the west. We are recommending that the plans not be amended to keep them consistent with what is surrounding there and what is the predominant plan designation on that section of Deane Hill Drive. However we are recommending approval of the RP-1 zoning to allow them some opportunity to develop the site and we are recommending the highest density under LDR that can be considered which is 5.99 units per acre. Once you get to 6 units per acre that kicks it into the medium density range. There are some other similar sites that have been developed with attached units along Deane Hill so this would not be any precedent setting thing. There have been a few sites developed similarly but there is no density that goes into the medium density range except those apartments that I spoke of.

Josh Sanderson: 4909 Ball Road. May I have permission to pass out a few different layouts to the Commission? I don't know if I have enough for everyone so they might have to share. The top page represents the zoning overlay that is what is up on the overhead. Mr. Brusseau has already pointed out the different variety of zoning overlay on both sides of Dean Hill Drive. I wanted to point this out to the Commission. Within 400 yards we are very close to a 19 units per acre tract of land. The first thing I wanted to point out was how close in proximity and the variety of different zoning in this sector plan. We originally asked for 12 units per acre. I am already going to start out giving you all back something and ask for 10 units per acre. But before I get any further on the first page of the first layout shows 6 units per acre. That is plan one. That is what staff's recommendation is six units per acre on this 2.2 acres. This is I understand this in concept and we are not on concept; we are on is zoning. I just wanted to imply this would be somewhat like our concept we would submit when we get there.

Longmire: May I, the house that is there is remaining?

Sanderson: Correct. Yes madam. What this shows is us establishing the land use at six units per acre. This is kind of a layout. It is going to become kind of a townhome almost condo kind of style. Turn to plan two that is the eight units per acre. It shows four additional units on there. So now that we have established land use at 6 units per acre we are trying to decide how many units we can build there. I understand if go up in units per acre we are getting out of the PR and into medium density a low medium density but still in that MD that is not on the south side of the street. We are trying to display here our

layout doesn't change the use of the land so much it just obviously adds additional units. The last plan, plan 3 is what we are working on or what we are asking for at 10 units per acre obviously maximizing the land and getting as many units as we can. With that said I will save the rest for comments.

George Ewart: Mr. Brusseau Prescott Way and Glen Ives Way and there are a couple of other ones, Cleveland Place I believe, are those MDR according to the sector plan Prescott Way is MDR is that correct?

Brusseau: I acknowledge that in the report that on the sector plan for Prescott Way development is shown as MDR but the zoning is RP-1 at 5.9. The development may be even less than that so the actual development zoning is not in the MDR range.

Ewart: What is Cleveland Place or Cleveland Way?

Brusseau: Looking I panned down the road and did not see any other medium density. I think Cleveland is off the map. I believe it is in the low density range.

Ewart: I think there are about 4 developments on this road. From there to I guess Royal Crown somewhere there are like four of them.

Brusseau: Lockett is the street I used. Basically once you get past Lockett heading east that is when more of the non-residential stuff starts in. Residential section from the apartments down to there is all low density.

Art Clancy: Mr. Sanderson you have got plan 1, 2 and 3. In plan 1 and 2 the house stays. You are back up against the south side of the property. I look down the street and Michael I know you didn't see any MDR, but I can see some on the screen. I went down that road. I think if I look at plan number 3 where you take the house away and you make a nice condo style or town home style development that makes good use of the property strictly from a land use standpoint I am inclined to say that I would rather see the 10 units to the acre. I know that is not consistent with the one year plan designation. When you are taking piece of property like this that all back up to a railroad tracks it is going to be hard to develop anything more upscale than that. You have got to kind of pull it all together. I am looking at this piece of property and these sheets. If I was a neighborhood or anybody around I think I would rather have a nice looking development that makes use of that property and makes it an asset rather than put a house in front and try to go around it and put something in the back that almost looks like an afterthought. I would make a motion if you want.

Herb Anders: I just have a question why the proposed entrance to that Townhouse development in all three plans comes off of the side street instead of Deane Hill.

Sanderson: To be honest with you we figured you use Winchester which is not as heavily traveled. Residents could pull off into Winchester obviously slow down speed and turn into the condo or townhome development.

Anders: Are the residents in that area aware of the proposed development and these three plans.

Sanderson: I figured we would cover that in concept. We are just asking for the zoning now.

Laura Cole: I would like to make a comment. If I understand I agree with Commissioner Clancy's rational, but I think if we make a motion to make a sector plan amended we have to have a rational for making that that meets the criteria.

Longmire: And do we? Mr. Brusseau.

Brusseau: I was just going to mention there is a letter in your package from someone who is opposed to the development. I have received numerous calls of inquiry. I don't know that I would necessarily say that they were opposed. Most people were expressing that it is already difficult enough to get out onto Deane Hill and adding all these units certainly wouldn't help that situation. Just to address Commissioner Clancy's comment which I think he was speaking of the same property Mr. Ewart was asking about that site is shown as MDR on the plan. I am not sure exactly how it got that way because the zoning that is there is not does not require MDR. The zoning that is on there is RP-1 at 5.9 which is consistent with LDR. In my eyes you can pretty much dismiss that MDR there because the zoning does not allow MDR and it is already developed.

Longmire: If you will look on the back of the second sheet or the first sheet either one it tells what is required to have a one year plan amendment or a sector plan amendment. Unless we can support one of those I don't know how we can change anything.

Mark Donaldson: The criteria are slightly different for the Sector Plan versus the One Year Plan.

Clancy: And this is what is required for the one year plan?

Longmire: The first one they are asking for is the sector plan designation. Then the next sheet will ask for the one year plan and approval of the zoning.

Michael Kane: I am not so sure I agree with some of this... Well anyway I think I prefer we give do this at PR one to six. I make a motion to deny MDR for sector plan designation.

MOTION (KANE) AND SECOND (JOHNSON) WERE MADE TO DENY MDR MEDIUM RESIDENTIAL SECTOR PLAN DESIGNATION. MOTION FAILED 2-13.

MOTION (EWART) AND SECOND (CLANCY) WERE MADE TO APPROVE MEDIUM DENSITY RESIDENTIAL ON THE SECTOR PLAN DESIGNATION DUE TO THE FACT THAT THE EXISTING AREA HAS NOW BECOME ATTACHED DWELLING UNITS AND DUPLEXES AND HIGHER DENSITY AREA ACROSS THE STREET AND DOWN THE STREET.

Longmire: Alright so that is trends and development. Is that the one you are appealing to?

Ewart: Yes.

Longmire: Alright trends and development have changed is what you are saying. So we have a motion and a second to approve MDR sector plan designation because there has been a change in the trend of development.

MOTION CARRIED 13-2 (KANE, KELLY)

b. One Year Plan Amendment

4-B-13-PA

From LDR (Low Density Residential) to MDR (Medium Density Residential).

STAFF RECOMMENDATION: Deny MDR (Medium Density Residential)

Longmire: We have changed the sector plan now looking at the one year plan. Again you have to have a rational for changing the one year plan and I will ask you what it is.

MOTION (EWART) AND SECOND (JOHNSON) WRE MADE TO APPROVE MEDIUM DENSITY RESIDENTIAL ON THE ONE YEAR PLAN DUE TO CHANGE IN DEVELOPMENT PATTERNS. **MOTION CARRIED 14-1 (KELLY)**

c. Rezoning

4-B-13-RZ

From R-1 (Low Density Residential) to RP-1 (Planned Residential).

STAFF RECOMMENDATION: RECOMMEND that City Council APPROVE RP-1 (Planned Residential) zoning at a density of 5.99 du/ac.

Michael Kane: I would just like to make a comment before we vote on density I think which is the next one. Is that correct? Yes. We just voted on 8.5 for something off the Pellissippi Parkway which is a fairly large tract and here we have a fairly small tract. I just want to remind folks about that in terms of adjacent neighbors and that kind of stuff.

MOTION (EWART) AND SECOND (PIERCE) WERE MADE TO APPROVE RP-1 WITH A ZONING DENSITY UP TO 10 DWELLING UNITS PER ACRE.

- Anders Yes
- Carey Yes
- Clancy Yes
- Cole Yes
- Ewart Yes
- Johnson Yes
- Kane No
- Kelly No
- Lomax Yes
- Pierce Yes
- Roth Yes
- Sharp Yes
- Stowers Yes
- Tocher No
- Longmire No

MOTION CARRIED 11-4. RP-1 AT 10 DU/AC APPROVED.

P 26. METROPOLITAN PLANNING COMMISSION (REVISED) 4-H-13-RZ

North side Sutherland Ave., east and west sides Forest Heights Blvd., Council District 2. Rezoning from R-1 (Low Density Residential) & RP-1 (Planned Residential) to R-1E (Low Density Exclusive Residential).

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

*** 27. HOLROB THOMAS LLC 5-A-13-RZ**

Northeast and southwest sides Waterville Ln., northeast of Schaeffer Rd., Commission District 6. Rezoning from BP (Business and Technology) / TO (Technology Overlay) to OB (Office, Medical, and Related Services) / TO (Technology Overlay).

STAFF RECOMMENDATION: RECOMMEND that County Commission APPROVE OB (Office, Medical & Related Services) / TO (Technology Overlay) zoning, subject to 1 condition.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

*** 28. CAROLYN DUNCAN 5-B-13-RZ**

Northwest side Millertown Pike, southwest side Legg Ln., Commission District 8. Rezoning from A (Agricultural) to PR (Planned Residential).

STAFF RECOMMENDATION: RECOMMEND that County Commission APPROVE PR (Planned Residential) zoning at a density of 2 du/ac.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

29. APEX HOMES

5-C-13-RZ

Southeast side Brooks Ave., southeast of Pleasant Knoll Ln., Council District 6. Rezoning from C-3 (General Commercial) & R-1 (Low Density Residential) to R-1A (Low Density Residential).

STAFF RECOMMENDATION: RECOMMEND that City Council APPROVE R-1A (Low Density Residential).

Evelyn Thomas, 1024 Pleasant Knoll. I am a homeowner there. I oppose the rezoning to R-1A because I feel that it will decrease our property value. The owner plans to put up duplexes there which are more than likely going to be used for rental property. We have managed to maintain the zoning on the southeast and east side of Dandridge Avenue in the area where we live and down Brooks Avenue as R-1. We have a lot of elderly and widowed homeowners. We would like to see a single family residence put there that is comparable to the homes in the area. We are trying to maintain it. You know that a lot of the public housing is being done away with and what we don't want to see is that small area be turned into rental property. My mother lives on that side. She is a widow and she is elderly. Along with that type of property comes a certain element that we are trying to keep away from us. I would like for you to take all of these concerns into consideration. As far as the property owner he tried to get that lot zoned the R-1 to C-3 back in 2007 so that he could put a car wash there. We opposed that of course and expressed to him at that time that we would like to see a single family residence or two that are comparable to the homes in the area. Since that time we have our first time to hear from the property owner. We have had to look at a vacant lot for the last six years with a sign posted in concrete that there is a car wash coming. I feel like he knows what we would like to see. What would be most advantageous is to have a single family home that is comparable to the homes in the area. This lot right now only gets cut when the city requests that he cut it. I think you need to be good neighbor or trying to be a good neighbor before you put something there that is going to bring down the value of our property.

Longmire: Would you like those pictures to be made part of the record? If you will give them to Mr. Brusseau here at the end. I

would also like to call Commissions attention to the petitions in your packet.

Raleigh Wynn Sr., member of that community for the last 40 years. I speak today from my heart. Due to a recent illness and what have you we have an organization that lasted for a long time. I was here before and I appreciate work of this community. I appreciate the work of the organization sitting before me. We are very very happy with the way things have turned out. We (inaudible) would like to see it remain that way. I guess you see me with a stick in my hand. I had a recent illness a few years ago. I have seen it grow and I have seen my family come back and it grow and we would love to see it remain this way. We are so proud of our efforts. Some of us older ones that I have taught for years and years ago. I can say this. They can't. They are not as old as I am yet. I do appreciate what has gone on in the last two years. To bring something in there is to bring down the value of what we worked for the last 45 or 50 years. We have raised our children; we went them to college. We sent them to different areas of the country and they have done well. They came through a situation where we were so proud. Proud of what we have accomplished. We would like for this to remain this way because as we grow older and some of you are going to live to get older we are so proud. The group we brought with us today; we are so proud. When I say proud I mean that. It is just like when Alabama loses to Tennessee.

Longmire: Sir I hate to interrupt but unless there is a request your time is up.

Wynn: I thank you very much for allowing me this time. May God bless all of you.

Jack Stooksbury: 1311 E Beaver Creek, Knoxville
Those pictures you have got probably show laundry mat and car wash coming. We dropped the car wash thing and tried to do the laundry mat. There is two lots. One is C-3 and the other one is R-1 I think. We wanted to build a laundry mat there and build a house next door to let the person the manager of the laundry mat or the overseer live in the house to oversee the laundry mat. That is still in the makings I guess. There is a lawsuit been filed over the denial. A laundry mat in allowed in C-3. So I thought well you know I am getting a little older might just do a couple of duplexes. I don't mean any disrespect to these folks but they already think I am going to be renting them out to a bunch of thugs. Well these duplexes are going to be handicapped accessible. I have older people as a matter of fact signed a lease this morning on a lady in her 60's on another piece of property. To say that the neighborhood is going to go down hill because of two duplexes. I have got pictures of... They called me at the first of the week and wanted to met, Beverly Johnson. I don't know if she is here or not. I brought my stuff and I was waiting all week

to meet and never did hear back from them. I brought pictures of what this thing is going to look like other than maybe the brick colors or whatever. We are talking about two duplexes. We are going from a C-3 which allows a lot of stuff to just a bump up from the lowest I guess you can get an R-1. This is an R-1A I guess Mike or Dan. I am not asking for a whole lot. To say that the neighborhood is going to go to pot over two duplexes which I am not looking for rent to anybody. I am not looking for trouble for renters. I can't make any money. To build the two houses it is just not, two single family houses, they just won't rent for enough to. I have to borrow the money to... I will have a mortgage and I can't. If I can't get this I guess we will go back to the laundry mat. I guess just have to be careful what people wish for.

Longmire: Mr. Brusseau how did that get rezoned C-3?

Brusseau: Good question. It is certainly not the most appropriate place for C-3 which is a big part of the reason why I think we would recommend this regardless because it is along an arterial street not being accessed through any local neighborhoods. That just in my eyes strengthens the request to change it to get rid of what probably is an inappropriate spot commercial zoning. How it got there I really don't know.

Jeff Roth: Part of my question I was going to ask has been answered in the last minute or so about this property being zoned C-3. I want to say how much I appreciate the community coming out and being interested in their neighborhood. I think that is awesome. I think that it doesn't make sense for this property to be zoned C-3. I think that would be way more detrimental to this area and to their neighborhood than to allow an R-1 or R-1A designation that they are requesting. I would support this because I think it would be supporting the neighborhood quite frankly.

Art Clancy: I would like to echo Commissioner. Roth's statements. Thanks so much to the neighborhood for being patient. Coming come number one and being patient through the process. Like Commissioner Roth I think supporting this would be supporting the neighborhood. The things that could go onto that lot in a C-3 we couldn't stop. I mean they could just walk in and get a permit to do and it doesn't come here. You have no say about that. So I think I am going to make a motion that we recommend that City Council approve R-1A Low Density Residential zoning per staff recommendation.

MOTION (CLANCY) AND SECOND (JOHNSON) WERE MADE TO APPROVE STAFF RECOMMENDATION.

Laura Cole: I wanted to say that I agree that commercial is probably not the right thing to have here. I am going to support

this zoning whether it is a duplex or a single family dwelling it could still be rental property. I think the difference is the relationship among the neighbors. I would encourage Mr. Stooksbury to reach out to those neighbors and try to work with them and reassure them and set up a relationship so if there are problems you guys already have a relationship established. I think that will make a huge difference.

Michael Kane: I know there is already a motion on the table. I just want to make sure I understand not having seen what is probably proposed. I guess this would be directed to Mr. Brusseau. Did the applicant give you any ideas exactly what he was looking for in terms of a duplex? I guess what I am getting at is if he did a use on review in R-1 which allows for duplexes is it the same thing that is allowed as a use by right under R-1A?

Brusseau: That is a possibility under R-1 but it is not under C-3. The C-3 site there wouldn't be any way to use that as currently zoned.

Kane: He could accomplish at least what we limited know with a use on review in R-1. Is that correct?

Longmire: Mr. Stooksbury did you say you had pictures of what you were planning on? Would you like to put them in the record?

Stooksbury: I only have one.

Longmire: Well you can just... We only have to have one. Just give it to Mike Brusseau then we will have that in the record that that is rather what you are planning.

Mike Ewart: I want to echo Commissioner Kane's comments because I would like to see this thing zoned R-1 instead of R-1A just so the neighborhood who has come out here and has shown interest in the utilization of this property would have some say so on a use on review.

Charles Lomax: I also want to express the same thing that has been expressed by Commissioner Kane. Also I was wondering if in this particular area if there are any other duplexes that are currently there and existing?

Brusseau: Not aware of any, no.

Longmire: Ms. Thomas may I ask you that.

Thomas: There are no other duplexes.

Nate Kelly: I also just want to echo the last few comments that have been made. I really do agree that it is a good thing for the neighborhood to get rid of that C-3 spot zone there. But I hear

concerns about the duplex and it seems to me like we ought to extend the process to allow them to have some additional communication with the property owner. The property owner can certainly pursue a duplex if we were to go with just straight R-1. That would be through a use on review and I think that would provide potentially some reassurance for the neighborhood that a duplex would be okay but it would also provide us with a better opportunity to really assess whether a duplex is appropriate there or not. That hasn't really been assessed I don't think to this point. I would actually oppose the current motion and support a motion for rezoning to R-1.

Janice Tocher: My question was going to be what is the process. I also agree with the current sentiment about changing it to R-1, but I was curious about the process to change it from what it has been proposed to getting it to R-1. Is that something within our jurisdiction?

Longmire: Yes it is. What would have to happen would be either the motion would have to be withdrawn or voted down with a second motion.

Clancy: That is my question. Can we down zone a piece of property just because he brings it in here?

Steve: Once the property is brought before you can rezone to anything that you deemed appropriate consistent with the plan. Consistent with the plan anything is within your... the application puts the property in play.

Clancy: Really.

King: Madam Chair.

Longmire: Commissioner Carey is up right now will you wait one second Mr. King? Sure.

Bart Carey: Mr. Stooksbury can I ask you a question? Mr. King are you representing...

John King: Well let me put it this way. I just asked Jack. I was involved when we attempted to (inaudible) this property previously when it was well as it is now C-3 and R-1. There is a currently pending I believe it is still pending. It is somewhere in the malarias of court system. I filed an action on the denial of utilization of the C-3 property that is still wondering around up somewhere I think. I asked Mr. Stooksbury and the property was zoned C-3 when he obtained it. He has spent considerable time and effort and money on the prior submission and the litigation that is currently involved on it. Now he is back again asking for R-1A in an attempt to provide a residential development in the area as opposed to commercial. Putting it back to R-1 as I

understand he then would have to come back for a use on review for anything he proposed which is again an additional expense. I think and Mr. Stooksbury can correct me if I am wrong because we had a hurried conference here. I think before you do that he would rather you just turn down the rezoning request in its entirety.

Carey: That is what I was working towards.

Clancy: Rebecca John didn't give his name and address.

I am John King, Post Office Box 2425, Knoxville, TN 37901.

Longmire: Thank you Commissioner Clancy for drawing that oversight to my attention.

King: I hate to see it put in the posture but I think that is pretty much where we are. There are a number of reasons that from his standpoint both as wanting to develop his property but also particularly as it relates to the legal situation it is in now. It just doesn't make any sense for him to go that again further additional expense on dealing with it in an R-1 if we have got to do a use on review. I think the better thing for him all things considered is turn down the rezoning request in its entirety and leave it zoned just like it is. Madam chair I want to make sure I... I apologize again. His preference is for this body to grant the zoning that he has requested which is R-1A which staff has recommended approval for; but if it is the will of this body that they are not going to do that then I would ask that it just simply be turned down.

Roth: If we did amend the motion to change it to R-1 which I was for. I think either one makes sense in this situation; way more sense than C-3 in the area. If we don't do that what you are saying is we would actually have no control over the development of that piece of property with a use on review or anything like that. Correct?

Brusseau: Under R-1A that they are requesting a duplex is a permitted use which means that this body would not hear anything. Under R-1 it requires a use on review. I guess the key to keep in mind is that it is currently zoned C-3 where he can do any number of commercial uses with no review by this body either.

Roth: That was my point. If we do nothing it stays at C-3 and there is nothing.

Longmire: But R-1 could be a duplex too.

Brusseau: With a use on review which would be opposed I am sure and who knows where that could go.

Longmire: One never knows Mr. Brusseau.

Roth: The only difference between the two is it would require a use on review and don't really see that as a prohibitive thing for the developer.

Longmire: I don't either.

Kelly: I just want to ask the neighbors. We are in a situation right now where the current zoning on the one parcel is C-3 which would allow him to do basically do a laundry mat or whatever that is allowed under C-3. The other parcel is R-1 so that would be single family residential or it could be a duplex with a use on review. Is that correct Mr. Brusseau? Okay. So that is the way it is right now. The motion that is being considered at the moment is to make both of these parcels the R-1A which would allow a duplex without any further consideration. He could just go ahead and build that. A third alternative we have been kind of tossing around that could be pursued is to make both parcels R-1 which would allow for a duplex but it would allow you to have some further input before that could happen. I just want to make sure that we are hearing what your real preferences are about what happen with that property. Are you as concerned about... Would you prefer a duplex to go onto that property as opposed to a laundry mat or would you rather us just leave it the way it is and allow a laundry mat or something like that to go on. From my perspective I think the current zoning is the worst possible outcome of these three outcomes. The R-A is probably preferred to that and maybe the R-1 is the best alternative but I would like to hear from you what you really think. It is your neighborhood.

Angela Fowler 1005 Pleasant Knoll Lane. It is one street the subdivision one street coming out to Brooks Road. We have our school buses right there. For them to have multifamily right there at the end of that street it is going to cause a lot of congestion. We didn't want the business there because of that. Now if you put multiple families right there that is just going to be a big mess. The street is only two lanes Brooks Road and then there is one street coming out of our subdivision.

Kelly: Can I ask you does it concern you more that there could be commercial there or more that there would be a duplex there?

Fowler: Definitely commercial.

Kelly: But your preferred would be both single family.

Fowler: Single family would be a lot better. There won't be as much congestion and as much traffic.

Kelly: You understand that regardless of which of these alternatives we chose, that a duplex is a real possibility even if it is R-1 that a duplex is a real possibility.

Fowler: Anything is possible. I mean you know.

Kelly: But you do prefer R-1 which would be the most restrictive would be the most likely to prevent a duplex but probably wouldn't prevent a duplex.

Fowler: Single family is what we would really like to have.

Kelly: I just wanted to make sure I was clear on that.

Longmire: We have a motion and a second on the floor right now for R-1A unless that needs to be amended otherwise the question is that we follow staff recommendation that City Council approve R-1A.

CLANCY CALLED FOR QUESTION.

Upon roll call the Planning Commission voted as follows:

Tocher	No
Stowers	Yes
Sharp	No
Roth	No
Pierce	Yes
Lomax	No
Kelly	No
Kane	No
Johnson	Yes
Ewart	No
Cole	Yes
Clancy	Yes
Carey	Yes
Anders	Yes
Longmire	No

Motion Failed 7-8.

MOTION (KELLY) AND SECOND (ROTH) WERE MADE TO REZONING BOTH PARCELS TO R-1.

King: Can I be heard please.

Longmire: It is already... We are here. No sir. Can you please not. Commissioner Carey has the floor. It has already come to Commission.

Bart Carey: I have I am not sure what rules or regs we operate under but I do understand we can make this basically it is our call on what we want to do here. I supported the R-1A staff

recommendation. I think this would obviously be a down zoning. That is our prerogative on whether we want to do that or not. I can't support that in this case.

Longmire: Okay I am calling the question.

King: Madam Chair I just want to make sure that the record reflects I sought recognition for further discussion but you declined to let me speak. I just want to make sure we got that in.

Longmire: If anyone wants to hear you they can request it sir.

Upon roll call the Planning Commission voted as follows:

Anders	No
Carey	No
Clancy	No
Cole	Yes
Ewart	Yes
Johnson	Yes
Kane	Yes
Kelly	Yes
Lomax	Yes
Pierce	No
Roth	Yes
Sharp	Yes
Stowers	Yes
Tocher	Yes
Longmire	Yes

MOTION CARRIED 11-4. R-1 APPROVED.

Longmire: The property is being rezoned R-1 and I thank all parties.

Clancy: Mr. Stooksbury I had a problem with the way that was done but bring me a duplex and I will consider it. I think that is a good use of that piece of property especially if it is going to look anything like the picture you pulled around. I think that is a good use for that piece of property. An upscale duplex would be just fine.

Longmire: Yes madam you may say something. Everybody may say something.

Thomas: In reference to your comment about it being a good use of the property back in 07 when we met before city council Mark Brown talked about Mr. Stooksbury contacting the neighbors and the homeowners. We aren't opposed to that property being developed. We just don't want an outsider to come in and rough shod over us. We live there. We are the ones that look at that every day. We are the ones that are going to

have to look at it. It is not about the money. We worked hard to get those homes. We would like to keep them nice and keep the things around them nice also.

Longmire: Thank you Ms. Thomas. We appreciate both sides and the civility with which you handled the discourse.

30. RUFUS H. SMITH JR. & COMPANY

Southeast side Ball Camp Pike, southwest side Andes Rd., Commission District 6.

a. Northwest County Sector Plan Amendment

5-A-13-SP

From LDR (Low Density Residential) to MDR (Medium Density Residential).

STAFF RECOMMENDATION: ADOPT RESOLUTION #5-A-13-SP, amending the Northwest County Sector Plan to MDR (Medium Density Residential) and recommend the Knox County Commission also approve the sector plan amendment, to make it operative.

Mike Brusseau: This has actually got some similarity to the last case. This is a property that is being requested for residential use but it is currently zoned CA commercial. The CA is kind of a spot of commercial zoning in that area. There is no other commercial zoning anywhere on the map. There is industrial across the street which in the county does allow commercial type uses. That is a remnant of the industrial that was placed along all the railroads at one time. That property is questionable whether it is big enough to do a whole lot of viable industrial type use. To get to the application the applicant has requested PR zoning at a density of 12 units per acre which is the upper end of the medium density residential range in the County. Twelve is the max on MDR in the County. We are recommending approval of the medium density residential designation. The adjacent properties those are not reflected as MDR on the sector plan are developed at MDR zoned and developed at MDR ranges. The two adjacent properties or actually it is one development is my understanding to the west and south of this site are both attached condominium developments that are zoned at up to eight one of them at seven units per acre and one of them is eight units per acre. We are recommending approval of the MDR to allow consideration of more than 5 units per acre. However we are on density we are recommending that the density be limited to eight units per acre rather than the twelve requested just for consistency with the surrounding development. Eight would be if this property were zoned at eight units per acre that would match what the highest density around that area is currently. Actually I just noticed there is another small piece of commercial to the west of this site on the north side of Ball Camp Pike. Certainly this commercial at this location I can see why somebody may have wanted it at a crossroads at one time but considering its proximity and all the residential around it it's

a good reason to potentially approve something residential on this site in order to get rid of a questionable commercial spot spot of commercial zoning.

Longmire: Mr. Brusseau the reason we can change the sector plan is because an obvious or significant error or omission in the plan. Is that correct?

Brusseau: That would be my opinion. The current plan does not recognize the existing development to the south and west of that. That probably should be shown as MDR in the plan and if it were this would be an extension of that medium density there.

Rocky Smith, 4909 Ball Road. We had a great proposal here with what we could do with this eventually but after this previous hearing I would like to request just withdrawal please of our proposal of our zoning request. As the property owner and as an owner that bought the property it was zoned CA I would just like to request... We had a really good proposal but after what I just witnessed I wish to withdraw.

Clancy: Based on the last case where we can down zone people's property just by bringing if they want to develop it properly.

MOTION (CLANCY) AND SECOND (JOHNSON) WERE MADE TO WITHDRAW OR THAT WE TURN DOWN THE PLAN AMENDMENT.

Longmire: I am just going to say what I used to say to my students have you thought that through sir?

Smith: Madam Chairman I have it zoned CA currently. Under CA zoning you can build multi-family residential. The first units have to take 7500 and after that it is 5000 square feet which comes out to 8.23 units per acre. I never knew my property could be down zoned. I thought you could turn me down. I just was not aware that you call could open up and zone it whatever you wanted to while we were here. If I was ever aware of that I would never have submitted it. We have got a great proposal. We have got a great plan that makes a lot of sense much more than having a truck repair shop there or a car repair shop there. If this body is going to take the stance that if you bring it up here it is open season I just have no reason. I would rather just keep my CA zoning. I would rather have what we proposed. I can go get 8 dwelling units per acre; no use on review. I can put a truck repair shop there, but I just can't take a chance of what just occurred right before this of somebody down zoning my property. I just don't want to open it up.

Longmire: I understand your concern. I just wanted to make sure. I have a motion and a second to deny adoption of the amending of the ...

Smith: I wish you all would just let me withdraw.

MOTION (CLANCY) AND SECOND (JOHNSON) WERE MADE TO WITHDRAW.

Brusseau: I was looking through the CA zone here and I don't know that I agree with Mr. Smith that multi family is allowed in the CA.

Smith: Duplexes are allowed. We have done it three different locations. That is what we got laid out on our plan.

Brusseau: I just wanted to make sure we were...

Smith: I have got duplexes laid out that is what they were.

Longmire: Usually when they say multifamily we think of apartments.

Smith: I understand. I just know we can get 8.3 dwelling units per acre. We have done it multiple places.

MOTION CARRIED 15-0. WITHDRAWN.

b. Rezoning

5-D-13-RZ

From CA (General Business) & PR (Planned Residential) to PR (Planned Residential).

STAFF RECOMMENDATION: RECOMMEND that County Commission APPROVE PR (Planned Residential) zoning at a density of up to 8 du/ac.

MOTION (CLANCY) AND SECOND (JOHNSON) WERE MADE TO WITHDRAW. MOTION CARRIED 15-0. WITHDRAWN.

Longmire: I am sorry I didn't see your light on Mr. Ewart.

George Ewart: I just wanted to ask about the down zoning of that. The owner of that property requested it to be down zoned. I am not missing something here am I?

Mark Donaldson: One of the lots was already zoned R-1.

Longmire: It was a different situation. No not right now.

Smith: Mine was a downzoning request too.

Longmire: I understand that but yes did somebody call my name.

Laura Cole: I was going to ask that he be allowed to speak.

Smith: It just mine was a down zoning request too. Anytime you go to residential from a CA not a planned commercial zone a true CA zoning that is a request for a down zoning. I just think you all made a move right there before me that was you just can't do that I don't think. I know you can I guess you can. You all did. It was just scary. I was trying to come up here to do something that was going to be better for my neighbors for everyone around us. The commercial zoning there isn't very useful except for an auto repair shop. I didn't think that would be good for the neighbors.

Longmire: I think probably you wouldn't have had a problem.

Smith: I know but I couldn't take the chance. We have got to come up with something if that can occur because that is not the purpose of this board is to have a man come up here and request a zoning and not just turn him down but down zone his property while he is here.

Donaldson: I would just remind the Commission that our purpose is to make a recommendation to the legislative body who had the authority to do that sort of thing.

Smith: I always try to stay here and keep it on a staff level on people that is trained and don't get into a political arena that it shouldn't be in. It should be right here. I have never appealed one zoning to anybody up above and this right here is where you should go.

Longmire: I really don't want you to think that was a political thing. Part of that you know we try...

Smith: Mr. Donaldson said we can go to County Commission well that becomes political.

Longmire: It does. It does.

Herb Anders: You said that we didn't down zone from a 1A1. We reduced the zoning further than the applicant requested so we did down zone that property.

Donaldson: No sir. We made a recommendation. We don't have the authority to rezone property.

Longmire: Everything we do is subject to approval by the legislative bodies.

Clancy: We told City Council that it would be a good idea to take it one step lower.

Anders: By a vote of 11 to 3, 11 to 4.

MOTION (CLANCY) AND SECOND (EWART) WERE MADE TO APPROVE STAFF RECOMMENDATION. MOTION CARRIED 15-0. APPROVED.

- * **31. TERRY PATTON** **5-E-13-RZ**
Northwest side Lantana Ln., southwest of Gap Rd., Council District 3. Rezoning from R-1 (Low Density Residential) to R-1A (Low Density Residential).

STAFF RECOMMENDATION: RECOMMEND that City Council APPROVE R-1A (Low Density Residential) zoning.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **32. LEON SHERROD** **5-F-13-RZ**
East and west sides Arnold Ln., east of Clear Springs Rd., Commission District 8. Rezoning from PR (Planned Residential) to A (Agricultural).

STAFF RECOMMENDATION: RECOMMEND that County Commission APPROVE A (Agricultural) zoning, subject to 1 condition.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

Uses on Review

- 33. RONNIE PHILLIPS** **4-C-13-UR**
North side of Washington Pk., west of Alice Bell Rd. Proposed use: Duplex in RP-1 (Planned Residential) District. Council District 4.

STAFF RECOMMENDATION: APPROVE the request for a duplex at this location as shown on the site plan subject to 7 conditions

Longmire: Before we start this we need to read the requirements for RP-1 zoning. Mr. Donaldson.

Mark Donaldson: I have no intention of reading the entire requirements of the RP-1 zone district but I will read the first paragraph which is a general description. The regulations established in this section are intended to provide optional methods of land development which encourage more imaginative solutions to environmental design problems. Residential areas thus established would be characterized by a unified building and site development program, open space for recreation and provision for commercial, religious, education,

and cultural facilities which are integrated with the total project by unified architectural and open space treatment. In order to accomplish these objectives, a new RP-1, RP-2, or RP-3 planned residential district may be created to be developed specifically as planned unit development.

Bob Wolfenbarger, 3200 Lexann Lane, 37917, I am speaking on behalf of the Alice Bell Spring Hill Neighborhood Association. If I may give you a little history on this particular circumstance that we are addressing today. Back on July 12th, 2012 or thereabouts I don't know if this was the actual City Council meeting or this Commission meeting but Mr. Phillips had come before this body and requested a rezoning. Prior to that actually as a result of that request we got a postponement and met with Mr. Phillips. Under the definition of this new RP-1 zone that Mr. Donaldson just read and I want to emphasize unify, to develop specifically as a planned unit development, shall be prepared by a recognized landscape architect and engineer, to deal with imaginative solutions to environmental design problems, all those things and the fact that he had a really pretty concept on paper he presented to the neighborhood association. We came down here and whole heartedly supported it because it was under the guise of a courtyard development. He got his zoning. Here we are a year later he is wanting do the same old stuff that many of us are wresting with in our older neighborhoods where we have large lots that are going to be infilled. He is wanting to do a duplex. He doesn't want to deal with drainage problems that are overwhelming our neighborhood. He doesn't want to give us a clear concept of how this thing is going to move forward. We met with him two or three weeks ago on a Saturday morning. I even asked him details like what's the units going to cost, what are you going to do about the water problem that we have now. In his concept there was a designed water control some water control feature, but now there is nothing. We are opposed to this simply and very simply because he changed the game. He came to us with a town excuse me a courtyard development design and engendered our support for the rezoning. Now he is back wanting to do what many of you would be opposed to. He is wanting to put a duplex perpendicular to the lot or to the street that it is near which is Washington Pike with no definite plan of where we are going to go from there or how we are going to deal with the existing water issues. I can personally testify to the water issues. I have lived in the neighborhood 15 year downstream from him where he is wanting to do this development. Our property has been flooded not our property but our home has been flooded including the two cars that flooded in my driveway three times in 15 year. We have the problem and is why we were so excited to deal with a developer that wanted to try to address some of those problems upstream. I am talking about the neighborhood association, not me personally. It is not a

personal issue. Basically what this boils down to is we have had the whole situation misrepresented to the neighborhood. We ask that you decline the request. Thank you.

Ronnie Phillips, 8317 Newclanburg Court. I am the applicant. What I am requesting today is just a first step of that concept plan. I certainly understand that if it is approved today then before I can move forward on any further development then I have to bring the concept plan to the neighborhood association and before this body again for use on review again. So I certainly understand their concerns. I have met with them many many times and provided as much information to them as possible. In your packet I showed them a color brochures, flood plans, blue prints. They have brought someone named James McMillian who is an expert in water. I have asked him to look over this development. Help me going forward. What issues we can deal with. There is an engineer who has a design going forward. Understand that I am an individual property owner. I am not a large development company and ready to develop this property to its fullest at this point in time. It is my goal, my dream to do so. At this point in time I am just asking for the first step. If the Commission can't support me in the first step, I don't feel I have the confidence to try to put forth a complete concept plan.

Laura Cole: I wanted to ask engineering about the water issues out there.

Chris Howie, Stormwater Engineering: There is a history of stormwater issues that cross between Atoka on down to Cross Valley I believe is the next one down. With this development they would have to reach certain thresholds before stormwater requirements would come into play. That could be from the amount of impervious area they create, the amount of developed area they create, the amount of developed area that is included or the number of lots that are included. With this one unit it would not reach those thresholds of where a detention pond or a water quantity component would need to be included with that development.

Cole: I am looking back at the minutes from our last discussion about this. There was some discussion about bringing in a more detailed plan. We postponed for an additional meeting with the neighborhood association. I was wondering if that had happened.

Phillips. Yes ma'ame it has. I did appear before them. There were 22 people at the meeting. As I said I presented all the information that I have. There were people in the meeting 22 people some people were supportive of it. The only person

who was really outspoken and adamant against it is Mr. Wolfenbarger.

Herb Anders: With reference to the future development on that, will these be similar type buildings to Mr. Phillips, be similar type buildings? Let me let you answer that question then I have a question for the engineering folks.

Phillips: What I originally planned and still wish to do is a courtyard type development. So it is kind of mixed use maybe duplexes, maybe single family and maybe triplexes possibly. But or to say the plan that I want to start with is an excellent, very beautiful building. I think that is the place that I can start.

Anders: For engineering if this is allowed to go forward and this structure to be built to consideration of future paving and that sort of thing is this structure taken into account with that with reference to water control?

Howie: Basically the way we do it is what we call our modern stormwater ordinance. It was approved in 1997. We would look at a combined amount of impervious area since that time frame so as incremental development occurred there would be a point at which that threshold would be crossed and when that threshold would be crossed the water quantity and quality controls would have to be done at that time.

MOTION (CLANCY) AND SECOND (ANDERS) WERE MADE TO APPROVE STAFF RECOMMENDATION. MOTION CARRIED 15-0. APPROVED.

- * **34. JAN G. LOVELACE 5-A-13-UR**

Southwest side of Ridgeland Dr., southeast of Summit Station Ln. Proposed use: Reduction of the peripheral boundary setback from 35' to 20 ' in PR (Planned Residential) District. Commission District 6.

STAFF RECOMMENDATION: Approve the request to revise the peripheral boundary setback for this lot, from 35 feet to 20 feet, to allow the covered porch/sunroom as shown on the site plan subject to 2 conditions.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- 35. ANTHONY LIESER CONSTRUCTION 5-C-13-UR**

North side of Valley View Dr., west of Luwana Rd. Proposed use: 2 duplexes in RP-1 (Planned Residential) District. Council District 4.

STAFF RECOMMENDATION: Approve for one duplex on each parcel as shown on the site plan subject to the 6 conditions.

Longmire: Sir would you like to go first or opposition? Alright and there is more than one person is that correct? Alright, so divide.

Bob Wolfenbarger: 3200 LexAnne Lane, 37917. Alice Bell Spring Hill Neighborhood Association. We are here to request that this applicant reach out to the neighborhood association and come meet with us. We meet on the 20th of this month. I would request that there be a postponement until they have had an opportunity to do that because we have not discussed this issue with them at all.

Celest Tipton: I own the property at 3908 Valley View Road which diagonally across the street from this property. My family has owned this property since 1956 and I grew up in the house there. I am intimately familiar with all the water problems that have gone on in this neighborhood. There is currently some stuff going to try to correct it however it is insufficient for what this gentleman is wanting. The property that he is wanting to develop this onto is a mush in the back and he will flood the property at 3907. There are no duplexes within at least three blocks on either direction. Everything is all single family homes with a minimum of a third to a half acre lot. So it is going to completely ruin the whole neighborhood. The water is the main thing. He would probably flood the house next door when he does this.

Longmire: Is mush a technical term? I am teasing.

Tipton: If you were to walk on it and your feet sink into it you would understand. It is technical.

Anthony Lieser: 245 Logan Lane, Heiskell, TN. I am representing Elidio Curi for the said property that he wants to build. Couple of things. First of all I didn't know you had to come before another commission to build a duplex on your property or so on. I think we are trying to do everything within the law. Lee lives less than a block away from this property and has been there and has been in this community since 1984. I don't know about the flooding issues of flooding a house. I do know the reason that we pulled the houses the duplexes up to the high side of that lot is because we are on the flood side of all this drainage stuff. He is on the low side. I don't know about flooding somebody else's house. If you will see if you guys have that map you will see where the original house set and where we are putting the duplexes. That is basically a straight line back on that property. Everything down to the lower side of that lot goes to a creek. There is watershed that runs down at the bottom of that creek which is the reason we are leaving the duplexes up high. My, Lee, my friend also client also has four other rental properties right in

that area: Cross Valley, Luwana, Washington Pike, he owns a condo in Valley Town condos which is two blocks away. He has had that since 1984. I guess our request is to be able to go ahead and build a duplex.

Longmire: If I look at this there will be like almost like a joint permanent easement to Valley View both house will use that.

Lieser: That is correct, yes.

MOTION (CLANCY) AND SECOND (JOHNSON) WERE MADE TO APPROVE STAFF RECOMMENDATION.

Bart Carey: Ms. Tipton is that right? Concerning your situation your concerns what do we have in place that can address anything engineering wise that we could address there?

Tipton: Do you want some history of what is going on on the property right now?

Carey: There is... I guess what I am wanting to see is what steps we have to remedy the situation.

Chris Howie: I believe one of the issues that I think is on Ms. Tipton's property is there is a hole that has opened up next to a catch basin as result of a metal pipe that has rusted out over the history of that conveyance through there. The city does have a project to replace that pipe with a concrete pipe and that is in the works right now. I don't have an exact time frame on that project. That is out there and that will help. That is your property is that correct?

Tipton: 3908 is the address of my property. The city has been the cause of a lot of water issues because did not take care of it in the first place. What is going to happen is 3907 is going to flood. If you go out there and you look at this property the creek they are talking about it is the width of your foot. It is not being addressed on the opposite side of the road.

Carey: The city is taking steps to help alleviate some of the problem. I just wanted to see if...

Tipton: It is all on my side of the road. It is not on 3907. It is not on 3907 at all. When I say it is this wide how is that going to carry all of that water from the top of the ridge all the way down all the way off of that drainage and it drains underneath the road into my property which had been crossing diagonally across my property 3905 no 3904 and 3900 and drains underneath Knox Lane into what was a wetland that was destroyed in 2006.

MOTION CARRIED 15-0. APPROVED.

- * **36. VALLEY VIEW BAPTIST CHURCH** **5-D-13-UR**
South side of Old Valley View Dr., North side of Valley View Dr. Proposed use: Church parking expansion in RP-1 (Planned Residential) District. Council District 4.

STAFF RECOMMENDATION: Approve the request for a parking lot to serve the church as requested subject to 2 conditions.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- * **37. TRENT CONSTRUCTION, LLC BILLY TRENT** **5-G-13-UR**
East side of Morrell Rd., south of Kingsbury Dr. Proposed use: Duplex in R-1 (Low Density Residential) District. Council District 2.

STAFF RECOMMENDATION: Approve the request for a duplex at this location as shown on the site plan subject to 4 conditions.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- P 38. FLOURNOY DEVELOPMENT** **5-H-13-UR**
West side of Thunderhead Rd., north of S. Northshore Dr. Proposed use: Apartments in TC-1 (Town Center) & OS-2 (Open Space) District. Council District 2.

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

Other Business:

- * **39. Consideration of City of Knoxville FY 2014 - 2019 Capital Improvements Program.** **4-C-13-OB**

STAFF RECOMMENDATION: Approve.

THIS ITEM WAS APPROVED ON CONSENT EARLIER IN THE MEETING.

- 40. Consideration of Consideration of Similar Use Determination for a veterinary clinic / animal hospital with boarding in the CN (Neighborhood Commercial) zoning district.** **5-A-13-OB**

STAFF RECOMMENDATION: Approve a veterinary clinic / animal hospital, with boarding in the CN (Neighborhood Commercial) zone, subject to administrative review of a development plan by MPC staff, and subject to conditions.

Longmire: The veterinary clinic is a use permitted in this zoning.

Mark Donaldson: Just to remind you that in this particular zone district the planning commission is given the authority to approve uses that are similar to other permitted uses. That is what the request is here. Currently there is listed under the uses permitted is a vet clinic/animal hospital with no boarding of animals. The request is to have you consider whether a vet clinic and animal hospital with board is similar to that or other uses that are allowed. We have tried to make case that that is that boarding in some manner is an integral part of all veterinary operations. It really boils down as to whether they are sick animals or healthy animals that are being boarded. Then in doing so we tried to create make standards for in particular the use of outside space by well animals.

Mike Brusseau: Two things I wanted to let you all know. One is there is a blue sheet that was passed out on Tuesday. That is the most up to date so make sure you are looking at the blue sheets for the recommendation. Then two just keep in mind that this proposal will apply to any CN zoned site in the city. We have not written this to address this particular situation. This would apply to any CN zone and keep in mind that I many cases a CN zone may be established in very close proximity to residential. That is kind of the whole point of that zone. I will here for any questions.

Bart Carey: Does that mean that any veterinary clinic could do this or anybody could open a dog boarding facility in the CN?

Brusseau: Well the proposal is for this is for a vet clinic with boarding so it would not allow just a straight kennel.

Donaldson: And this is in the county.

Longmire: And it would have to meet the minimum space. If you have to have a minimum size of 2500 square feet it wouldn't obviously go on a smaller lot than that.

Brusseau: We feel that the recommended conditions could conceivably be applied to any potential CN zone site in the county to try to address this possible impact to adjacent properties. Well I got to keep it.

Longmire: Would you like mine Mr. King? First I won't let him talk and now you won't let him look at the sheet. Do you wish to make a comment on that Mr. King?

John King, P.O. Box 2425, Knoxville, TN 37901: I was just trying to make sure that the blue sheet is the same as the white sheet. There are a few changes I think but they are not of substance between his and mine. Earlier today I thought when we got to this point I would say well we have finally all gone to the dogs but it has been a little more serious meeting.

I will refrain from saying that. I have recent instances involving veterinary clinics and the boarding of dogs. I have one particular one in concern and of concern right now that stimulated this. I did want to say Mr. Brusseau is correct that you need to keep in mind and I need to keep in mind that this is effective for potential multiple locations. It is not just limited to one particular place. The other thing is to keep in mind that these provisions and these conditions apply only to a vet clinic/hospital in a CN zone. You can have them in other places in other zoning classifications but this is just related to the CN zone. I have had a number of conversations with Mr. Donaldson and Mr. Brusseau and at least one perhaps more meetings on this whole subject and this was sort of the consensus on the way to approach the issue. That was the reason for the pursuit of the letter and this particular request. As it relates to the conditions the recommendation is to approve a vet clinic with boarding in the CN zone subject to certain conditions. I want to talk only about one of them.

COMMISSIONER JACK SHARP LEFT THE MEETING AT THIS TIME.

The rest of them I don't particularly have a problem with although I would note that one of them is enclosed outdoor animal areas must be located to the rear of the principle building. There may get to be situations where the principle building is back at the back end of the property with some other smaller buildings toward the front or whatever and the best place to put it is in front of the principle building but it is still far away from the front of the lot. Once again I am really not going to get concerned about that. I think the point is to establish the procedure of the policy. That is the more important thing. I don't want to get too picky. The one thing I do want to talk about and raise a question about and I have alerted Mr. Brusseau to this is the which is item number 5 on my sheet and I don't know if it is still number 5 or not. It is no more than 3 dogs permitted in the enclosed fenced area at one time. Is it still number 5? Yes. I raised the question from the start about that and told them when they started to develop this that I would have a question if they started restricting the too intensely the number of animals involved and/or the number of animals in the enclosure. I think three is too few. I would observe that many people like I own more than one dog. There are times when I might leave the three dogs that I used to have would need to be boarded or otherwise cared for and I take those to a place like this then one person has three dogs there and nobody else's dogs can be out while mine are under this. I would suggest that that number be adjusted upward and there are further reasons in support of that. In the county there are no restrictions on the number of dogs I can own or keep. There are no restrictions on how I keep them. I could have 10 dogs and have them all outside and it is okay unless somehow or another I get a

really vigorous neighbor and they want to try to sue me for maintaining a nuisance or something like that. There is no restriction in the county. In the city there is a restriction. In the city no more... well a person cannot house and keep in the city more than four dogs. That is four dogs per person per household. A family of three could have 12 dogs. I am not suggesting that ought to be the case or anything else. I am just pointing it out as you consider this issue here where you have dogs that are being supervised, dogs that are getting out for a specific purpose. I think limiting the vet clinic to having only three outside at one time is too restrictive. My own personal suggestion and I don't have any expertise in this but as I thought it through and looked around and tried to compare my own number I came up with was ten; no more than ten. I may be a little high. I don't know. I don't know that there are any dog experts to start trying to put numbers on it. I just pointed out what the situation is in the county and the city for your consideration as you look at the number. I would ask that you please consider raising the number that is permitted. They are going to be enclosed and they are there for a purpose. I would hope that gets revised.

Longmire: So you do indeed have a dog in the fight sir.

King: Right. As a personal note I would ask that at the conclusion of today's proceedings and before you adjourn that I be permitted to speak in a public comment section about a matter that was on the agenda today. It is over and done with. There is nothing before you but I would like the opportunity to speak on that madam chair if you would grant it please after you finish your work today.

Clancy: Congratulations for arguing up one side and down the other of that argument.

MOTION (CLANCY) AND SECOND (JOHNSON) WERE MADE TO APPROVE A VETERINARY CLINIC/ANIMAL HOSPITAL WITH BOARD IN THE CN NEIGHBORHOOD COMMERCIAL ZONE SUBJECT TO ADMINSTRATIVE REVIEW OF A DEVELOPMENT PLAN BY MPC STAFF AND SUBJECT TO THE FOLLOWING CONDITIONS.

Laura Cole: Just a couple of comments about the conditions. Condition number three says dogs may not be permitted outside between certain hours and I think that is great. I think it would help if we were more specific unless they were being dropped off or picked up. Somebody might interpret that very literally and I think we could make that more specific. I think condition number five is too restrictive. I wouldn't want to try to manage a vet clinic only allowing three dogs out at a time. You may have ten runs. You may have one or two dogs in each run during those restricted hours. If it were up to me I

would probably strike condition five altogether unless somebody tells me that there are unintended consequences to that.

Longmire: I definitely concur about number three that it needs to be more specific because I know when I take my cat to the vet it is often 7:00 in the morning when I drop them off. So.

Clancy: It doesn't say anything about cats.

Longmire: Does that mean I can't take my cats?

Clancy: You can't take cats at all to this thing.

Cole: It is only about dogs.

Brusseau: May I make a suggestion? On number three I absolutely agree also. I think it could be reworded in such way to say dogs may not be permitted in the outdoor fenced area between the hours of 8:00 to 8:00. That also could apply to number five no more than however many dogs may be permitted in the outdoor fenced area at any at one time. I would recommend that language be changed.

Clancy: I will amend my motion.

MOTION (CLANCY) WAS MADE TO APPROVE A VETERINARY CLINIC/ANIMAL HOSPITAL WITH BOARDING IN CN NEIGHBORHOOD COMMERCIAL ZONE SUBJECT TO ADMINISTRATIVE REVIEW OF A DEVELOPME TN PLAN BY MPC STAFF AND SUBJECT TO THE FOLLOWING CONDITIONS WITH THE EXCEPTION THAT CONDITION NUMBER THREE BE CHANGED TO READ DOGS MAY NOT BE PERMITTED IN THE OUTDOOR FENCED AREA BETWEEN THE HOURS OF 8:00PM AND 8:00AM ON ANY GIVEN DAY AND STRIKING CONDITION NUMBER FIVE ALL THE WAY. SECOND COLE.

Wes Stowers: One question for clarification. One clause here it says furthermore the use if approved will be allowed on any other property zoned CN subject to the requirements of that zone. You know that is a little broad too. I have no problem with what we are doing here but each of these locations is a little different.

Longmire: That is what the administrative is. For example ...

Donaldson: Let me qualify that. The administrative review would be to test against the conditions and standards that we are creating here not to make a decision as to whether it is allowed or not. By declaring that this use as worded is similar

to other uses you are adding to the list of uses permitted in the CN district so it would be allowed within any of the CN districts that are established or will be established in the future.

Stowers: That to me could set up a problem because it fits here it may not fit in other CN.

Longmire: But the administrative review would allow us to for example if the vet clinic was located to the side of the property in the enclosed area had to be at the other side of the property.

Donaldson: We could move an enclosure area around on a lot to minimize its impact but we couldn't turn down somebody without a reason for any reason other than it didn't meet the standards.

Longmire: Do we have to have a buffer zone anywhere?

Donaldson: I think that we just declared that the outdoor, enclosed outdoor area had to meet the setbacks that were established.

King: If I may? If you look at number two, I think it is still number two on the blue thing, the enclosed outdoor area has to be to the rear of the principle building. It is subject to specified building setbacks of the CN zone. They have got a minimum size for that area and it has to be enclosed with a fence of a certain height and this that and the other. No such outdoor animal area can be located within 100 feet from an existing residential structure on any adjacent property. So I think in dealing with those kinds of issues in that particular condition they have met the interest if you will or attempted to meet the interests of various properties how it lays out and how adjacent properties are protected.

Longmire: Alright we have an amended motion on the floor with a second. Commissioner Cole your lights on. Didn't mean to be? All in favor... Wait there are lights on.

Anders: If we take out condition five does that mean that is unlimited to the number of dogs that can be in that run?

Longmire: That means there is no condition about the number of dogs.

Anders: I would have a problem with that.

Longmire: Commissioner Kane would have a problem with that.

George Ewart: I would have a problem with that also. You are talking about 5,000 square foot vet clinic. You could have probably 20 kennel areas inside at least putting 20 dogs out there at one time buffering up against a neighborhood I don't think is ideal.

Cole: Could somebody give me another number?

Ewart: Three to five would be sufficient. You have got pretty much of a 12 hour period of taking those dogs out. It isn't typically that you are going to put an animal out for 12 hours in there. They are going to be rotating them in and out. If you had 20 dogs and each one of them was out there for a maximum of four hours or three hours you know that is four or five dogs. That would be a better way of looking at it.

Cole: I think that condition would be very hard to enforce.

Michael Kane: My question is I don't know what the ideal number is. I think we should start with something because this is our first foray into this. I can understand maybe three may be too small. I am not comfortable with ten; something in between. My question really is what allows if we want to revisit this sometime later somebody essentially petitions this body to amend these criteria that is possible is it not?

Donaldson: Absolutely. We did an internet search of dog densities and there is just nothing out there.

Kane: I guess what I am saying is given this is first initial thing we should do something that seems reasonable for the operation of a facility that would be in some kind of neighborhood commercial and again this doesn't apply to all veterinary boarding situations. It is only those in the CN zoning. I think we should start with somewhere with some kind of limit and see how it works and then we can adjust it later as we need to.

Charles Lomax: I definitely agree that there needs to be some limit on the number of dogs. My question is perhaps this is just incumbent upon on the kennel itself as far as what types of dogs are out at the same time. If I have a t-cup poodle that I am having staying there I don't want my t-cup poodle to be one of the three out at the same time with a pit bull.

Longmire: That will depend entirely on the... if they put it out there with a pit bull the next time you get a t-cup poodle then don't use that kennel.

Lomax: Just for the record I don't have a t-cup poodle.

Anders: I don't know if it would be appropriate or not that instead of setting a number a percentage more than 50% of the total dogs kenneled more than 30%.

Longmire: What about per square foot?

Pierce: It would have more do with the amount of square footage you dedicate per animal. Obviously the bigger the area the more animals you can have outside.

Clancy: They are restricted on the size of the outside area anyway.

Longmire: Minimum size not maximum.

Brusseau: Our thoughts as far as veterinary restriction was not necessarily based on the amount of space. It was basically because the more dogs that area out there at one time the more noise there is going to be. That is where the three came from hoping to minimize that.

Longmire: What about five? Is five that is kind of between three and ten, five or six?

Clancy: Let me amend my motion one more time. I would like to hear what the attorney in the room has to say about it. I really don't but go ahead.

King: I understand what we are doing. Let me look at the practicalities and the procedure. What you are going to have is once you establish this number somewhere in the future somebody is going to come along and propose to do this and he or she is going to look at these requirements and make a decision on that basis. For that reason I would suggest that you set the number higher than lower because it is easier to modify downward based on experience than it is the other way around because you are not going to have anybody coming in trying to raise up the number because there is no experience on what that raised up number. If you follow my reasoning it makes it easier if you set that number higher with the realization and expectation that if we got it wrong and that is too many to let out at one time it is easier to back off because you are not going to get somebody that has five dogs and he goes out there and puts out ten and you get some experience on that and all of the sudden ten is not a problem. That is not going to be happening. But if you set it at ten and they go out there and put out ten and there is a problem then it is a lot easier and you will find out about it a lot quicker.

Clancy: How about we say five and you just work it into your business plan when you decide to open up a veterinarian clinic anywhere in an NC zone.

King: That is what is going to happen. That is my point. We are sitting here trying to pick a number and none of us really know what it ought to be.

Cole: That is why I didn't add one.

Donaldson The fact that this is a commercial; neighborhood commercial zone district plays into this and pushes that number lower.

King: And I don't disagree I am just making the observation if you want to do five I am not going to complain about it. If you do six I am not going to complain about it.

Cole: I withdraw both my seconds.

Longmire: We need to make an establishment. This is the start. This is where we need to start. I know if we put fifteen dogs it is going to be harder to bring it back down to two. We have to have something.

King: And I am not disagreeing. The only reason I offer those they are observations I am not arguing about it. If you want to leave it at three that is okay.

Longmire: We have limits on everything. We always work with limits.

Carey: I think we got fifteen people getting ready to vote on something we have no clue what we are doing.

Cole: I was going to let Commissioner Clancy revise his motion once again.

Longmire: Would you like to withdraw your motion and just do a new one?

Clancy: For a nickel I would withdraw my motion, but I really think there is a situation that requires us to make a decision. I think the staff put some thought into this. I don't think Michael just spent ten minutes going here and here and threw it into the packet. I think he really put some thought into and there is a specific situation in an NC Neighborhood Commercial zone where people are waiting to find out if they can put their veterinarian clinic where they think it is a good place to put one. They have obviously not figured how many dogs they will take out at one time into this scenario, but if we say five then they have got something to work with in their business plan. If we say unlimited we are kind of leaving it open, but I am not too opposed to that. If we just postpone it completely, I don't think that is right.

COMMISSIONER CLANCY AND COLE WITHDREW THEIR MOTION AND COLE WITHDRAW MOTION

MOTION (KANE) AND SECOND (JOHNSON) WERE MADE TO APPROVE THE SIMILAR USE DETERMINATION FOR VETERINARY CLINICS/ANIMAL HOSPITAL WITH BOARDING IN THE CN ZONE SUBJECT TO ADMINISTRATIVE REVIEW OF THE DEVELOPMENT PLAN BY MPC STAFF AND SUBJECT TO THE FOLLOWING CONDITIONS AS PREPARED BY STAFF WITH THE FOLLOWING CHANGES ON ITEM NO. 3 DOGS MAY NOT BE PERMITTED IN THE OUTDOOR FENCED AREA BETWEEN THE HOURS OF 8 PM AND 8 AM AND ALSO CHANGE NUMBER 5 TO NO MORE THAN SEVEN DOGS MAY BE PERMITTED IN THE ENCLOSED FENCED AREA AT ANY ONE TIME.

MOTION CARRIED 14-0. APPROVED.

- P 41. Consideration of preliminary budget for Fiscal Year 2013-2014.**

5-B-13-OB

THIS ITEM WAS POSTPONED EARLIER IN THE MEETING.

Art Clancy: Madame Chair I would like to hear, really again I don't want to, but I would like to hear what the attorney in the room has to say about the...

Becky Longmire: I will say this Mr. King has been very patient in waiting to hear. If you have a pressing appointment that you really need to get to you are excused. But I will be here and Mr. Clancy will be here to listen to you Mr. King if no one else is.

Len Johnson: And I will too John.

John King: Let me start out by saying I have been doing this for a lot of years and I hope to continue doing it for a lot of years. I have learned over those years that there are going to be times when members of this body and I don't agree and that is expected and that is not out of the ordinary. While at times I make appear to be upset about it I have learned over those years to quickly forget about those instances where we may have disagreed particularly when it comes time for you all to cast a vote. I did want to talk to you a little bit about that Apex thing and where that leaves somebody. The vote here may after I spend some time thinking about it and talking to my client, it may have if you will muted the lawsuit that he has over the refusal to permit him to utilize the property that was zoned commercial for a commercial use. Having rezoned that property now that may have obviated that lawsuit. At the

same time the result has been to put him in the posture where he now owns those lots and must come back again after further expenditures of funds with a plan to try to develop it when we already know without doubt that the neighborhood will oppose anything other than a single family detached residence. My client has owned that property for in excess of 20 years. It was zoned that one piece was zoned commercial when he bought it. He hasn't been able to use it for anything except to put an occasional sign on in that 20 years. Where he is now left is looking at a situation where he knows he is going to be captive to probable non-development of that property for anything other than a single family detached residence.

Longmire: I just don't think that, I don't want to interrupt but I think you misunderstood.

King: I don't think I have because we already know and it has been demonstrated in the past when we have tried to do something on that property the neighborhood will resist any effort to do anything with it other than a single family residence. And now once again in order to do even a duplex he has got to come back as a use on review. We already know what the response of the neighborhood will be on that. All I am saying is that there are it is not really your function and not really your business, but at times like today I exhibited some frustration and I suppose after I did so that I ought to at least tell you all why that happens with me on occasion. It does put him in a very difficult posture about trying to utilize that piece of property. As I say the vote is done it is over with. I understand it. It is behind me but the practical consequence of this of a number of decisions at times gets to be, gets to be a real point of frustration and that is the reason I sought recognition to simply suggest to you all that I have got a guy here who owns this property for I know it is in excess of 20 years. He owned it before this neighborhood that now is around it was even built I believe. He has got himself some property that realistically he hasn't been able to do anything with for a number of years despite efforts to do so and now he is looking toward having that same situation.

Longmire: Alright I want you to look at some of the other cases we did though where we actually did not do what the neighborhood wants. I really think we did this so that there would be a use on review to make sure that the best product was put on that land. Not necessarily single family. But if I am wrong you all can tell me. The duplexes he showed the pictures we showed were lovely. We want to make sure that that is the product that is built. You know and I know that sometimes people say they are going to do something and it doesn't get done that way. We want... I really think we feel like our job is to help both the development community and help protect the neighborhoods. That is what we want to do. I

really think that is why we did what we did. He will be able to develop that. If he has a beautiful product for duplexes then I for one am going to vote for duplexes.

King: I wish you were on City Council.

Donaldson: That is the point. If I could remind the Planning Commission you have heard that you just rezoned that property. That is not true. You have made a recommendation to the appropriate legislative body who has the authority to do so. What your recommendation did was add to the mix of the zone districts that they can consider. One of those zone districts that is already in play on one of the lots.

Kane: I would like to see us... I was trying to try to come up with a solution that was along the lines that Rebecca Longmire has said. Because I believe in this particular case that I really think that I don't have a problem with the duplex necessarily in that location. What I had was the problem was there wasn't going to be a use on review of that. I think in thinking about it more and I certainly understand the concerns of the applicant and some of the reactions that came from that. I probably another solution that I probably would have more endorsed would if we had rezoned it R-1A with a condition that there be a use on review essentially a concept plan developed for that. We have done that in other situations. We did that at Choto as a matter of fact. We required that where it is not required in the zoning regulations but we required it. I think that probably would have been a better solution than what we came up with. Maybe City Council can look at it from that respect but I think in this particular case with this particular neighborhood that some kind of review of actually what is going to be built is important. I think that is what we were trying to do. It wasn't a perfect solution. We are not a perfect body of people and sometimes you have to make decisions very quickly. I really feel like we did the best we could at the moment and that is why it goes to City Council.

Cole: The thing that bothers me about this whole discussion about duplexes is what I hear from people is they don't want a duplex because they don't want it to be rental property when in fact a single family home dwelling can also be rental property.

Longmire: And duplexes can be lovely.

Cole: So I think there is more of a fear of rental property here than single verses duplex.

King: Please understand why I make the comments I make. It is more as you well a left handed way of apologizing to this body for exhibiting some frustration.

Longmire: Oh you are only human John as you are. Except for Commissioner Clancy.

Clancy: Before I make the motion. Really it was not the intent of what was done. R-1 probably while appropriate and I would have liked to have had the review R-1A with the review would have probably been just fine. For somebody to walk in here with a piece of commercial property and ask it to be zoned to R-1A. The one that came right after that. Those people could do eight units to the acre in CA. We were saying no we will give you R-1A at 8 units per acre. That limits his options of his ability to make good use of that piece of property which is explicitly what we are supposed to make decisions on and recommendations on. It is not that I disagree with the R-1 on that piece of property it is that anybody can walk in here with a C-3 or C-4 and ask for a different zoning and we can drop them out the bottom and make that recommendation to City Council who really to their credit acts positively on our recommendation 98% of the time. Now Knox County doesn't. to be a political body they really do take our recommendations to heart. The precedent that we set there. We are going to scare some people out of even bringing a good viable piece of property in here if they think I have got commercial now I don't want to risk a really upscale development that has got this nice stuff but I need a higher density. They are going to think twice about it. The precedent is what I took the exception to. Not the intent. I didn't want the people here to be disappointed. I felt for them. But at the same time that was hard for me. It really was. Of all the things we have done in the years and years I have been here that was a tough one.

Brusseau: As Mark pointed out this is just a recommendation from MPC. The zoning is not final until it goes to City Council. If this applicant wants to eliminate his risk of losing the C-3 he can withdraw it before it is heard by City Council. I would not be surprised if that is what he does.

King: That thought never occurred to me.

Adjournment

MOTION (CLANCY) WAS MADE TO ADJOURN

There being no further business, the Metropolitan Planning Commission meeting was adjourned in order at 5:36 p.m.

Prepared by: Betty Jo Mahan

Approved by: Mark Donaldson, Executive Director

Approved by: Rebecca Longmire, Chair

NOTE: Please see individual staff reports for conditions of approval and the staff recommendation.